

REQUEST FOR PROPOSALS

Supportive Housing with Integrated Educational Services for Aged-Out Foster Youth

RFP 18-03

3861 – 3893 Third Street
Downtown Riverside

Assessor Parcel Number 213-071-006; 007; 008

Re-Issue Date: March 14, 2019

Proposal Due Date: June 11, 2019

HOUSING AUTHORITY OF THE CITY OF RIVERSIDE



The hidden truth of AGING OUT

of the Foster Care System



54%

Will earn a High School Diploma



1 in 5

Will be homeless within one year



1 in 4

Will be incarcerated within two years



Less than 3%

Will earn a bachelor's degree



71%

Of women will be pregnant by age 21



50%

Will be unemployed by age 24

Source: <https://cronkitenews.azpbs.org/2015/12/04/arizona-tuition-program-enables-foster-youth-to-earn-college-degree>

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INTRODUCTION

Youth homelessness is on the rise, both in Riverside and statewide. "Homeless" is defined by the McKinney-Vento Act as "any individual who lacks a regular, fixed and adequate, night time residence." This includes shelters, parks, camping, and living in motels being paid for by federal, state, or local government or charitable organization, on the streets or living in substandard blight conditions. A variety of factors contribute to the unstable housing situations of these youth. Schools and service providers around the region are seeing more "first-time homelessness" in youth and families.

The lack of stable housing opportunities can impact a student throughout their education. This is particularly true for students in the foster care system. Studies show that only about 30% of children who grow up in foster care graduate from high school. Just 2.5% of foster youth graduate from a four-year college. The lack of housing resources for housing endangered students, and a lack of educational resources for these students impacts life success and is linked to increased instances of poverty.



THE PROJECT

Under RFP 18-03, the Housing Authority of the City of Riverside and the City of Riverside request proposals from a qualified developer or development team to construct a new affordable housing development at 3855-3893 Third Street, Riverside, CA 92501, to provide housing for youth who have aged-out of the foster care system.

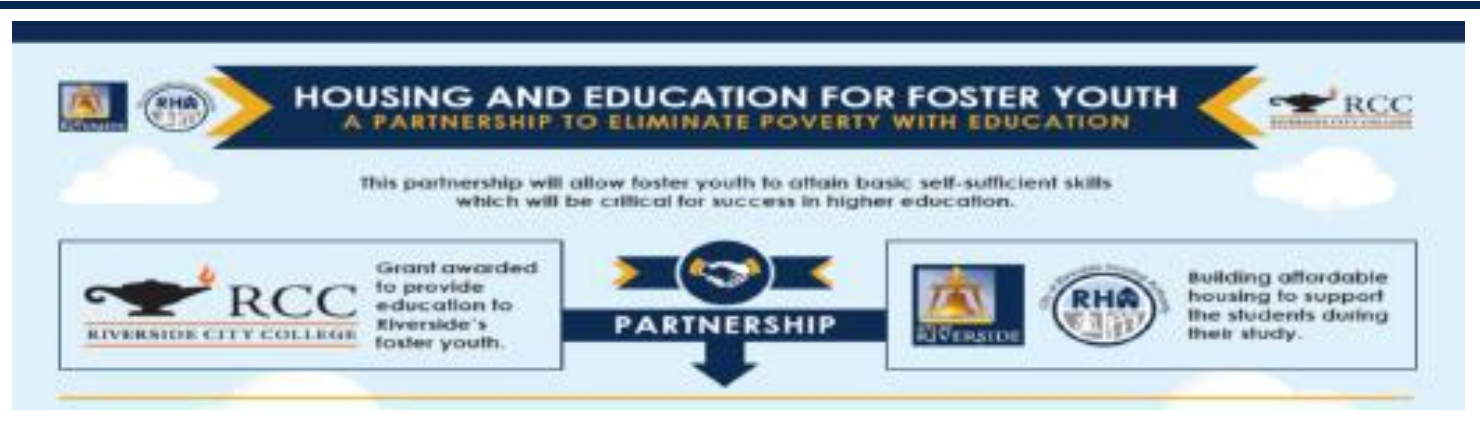
This affordable housing development (to be built compatible with the City's Housing First Plan found at www.riversideca.gov/h1plan) will successfully provide affordable housing components with educational services offered on-site for residents. The project should integrate with the community and neighborhood. The goal of this project is to keep students who are transitioning out of the foster care program and who are in danger of becoming homeless, housed in a stable situation while they continue their education and receive assistance with employment and permanent housing.

Educational services can be defined as, "[e]ducation and training which aims to equip people with knowledge, know-how, skills and/or competences required in particular occupations or more broadly on the labor market." The respondents must demonstrate a background in providing on-site training, and demonstrate past projects with an on-site integrated educational services. For the sake of a response to this Request for Proposal (RFP), the respondent should demonstrate how the housing and educational components interact to improve the experience of termed-out foster youth, and define quantifiable outcomes for success in the short and long term based on their development experience. The on-site education services must be an amenity to the housing development and not an independent school.

The City of Riverside and the Housing Authority of the City of Riverside are sensitive to the residential character of the neighborhood. The site is envisioned to be developed with a multi-family residential development. Developers may consider a design that incorporates a central amenity (pocket park, walk path, play area) that enhances the educational element, with housing on the periphery. The City of Riverside anticipates the Project site will allow developers the freedom to use density and creative design to build a "mini-neighborhood" concept that incorporates education and career training services as an amenity to residents.

To incentivize the development the Housing Authority will contemplate a write-down of the land and subsidy for soft and hard construction costs. The Housing Authority of the County of Riverside may provide housing vouchers into the project. Various peripheral partners may also participate in support of a potential project.





PROJECT PARTNERSHIP

This RFP is supported by a number of innovative community partnerships who will, subject to resource availability and approvals, support the proposed Project. Partnerships in support of this RFP were formalized in a multiparty Memorandum of Understanding. Any respondent to this RFP should take the proposed Project partners/deliverables below into analysis for any submitted proposal although the term and availability of each may vary. However, the partnership deliverables below should be considered peripheral and “value added” to any potential project.

The City of Riverside and City of Riverside Housing Authority may provide land and project capital finance in aid of a potential partnership in development of the Project.

Riverside Community College District may provide educational training and resources for homeless youth that have been aged out of the State foster care system as part of their Completion Counts Program.

Riverside County Workforce Development Center may provide workforce and life skills training to aid families of Project residents.

Housing Authority of The County of Riverside may provide project based Family Reunification Vouchers based on availability to alleviate housing costs for Project residents.

Riverside Unified School District may provide referral information, and training to potential families and students that may qualify for Project based housing and resources.

Alvord Unified School District may provide referral information and training to potential families and students that may qualify for project based housing and resources.



PROJECT DESIGN

Housing units should be an efficient use of space that provides furnished, private living accommodations for residents, including storage, kitchenette and bathroom facilities. Units may be either efficiency or one-bedroom units. Each unit should have access to a minimum of 50 square feet of private open space. On site property management is required.

Interior Common Amenities

Living room, dining room, communal kitchen, eat-in kitchen for occasional shared meals and common laundry area. Areas should be well-lit and welcoming. Modular furniture should allow the common living spaces to be used for multiple purposes (e.g. life skills classes, community meetings, art therapy, financial literacy and other services for youth). The Project will also require common open space areas.

Project Goals

Design, build, and operate a distinctive living community with clean, comfortable, permanent accommodations and supportive services for foster youth.

Provide decent, safe, and affordable housing for young people so that they can exponentially increase their opportunities, get a good education, and pursue their dreams.

Provide stable, safe, and affordable housing to foster youth who are pursuing a college education, and those at risk of experiencing homelessness when they are no longer eligible for foster care.

Neighborhood Design

In considering a potential project, respondents should be sensitive to the existing residential design patter. A successful proposal will demonstrate the following four specific elements that make up a neighborhood:

- Physical boundaries – the size and type of buildings and perimeter streets can make the edges of the neighborhood clear
- Connectivity – the ability to move easily within the neighborhood and connect to its amenities: common areas, schools, shopping, workplaces, and public transportation
- Scale of the public realm – continuity and consistency, from buildings to streetscape, and a differentiation from the area outside of the neighborhood creates a sense of place

- The Buildings – should be compatible with the scale and architecture of the neighborhood

To be considered responsive to this Request for Proposals, a Respondent must submit a proposal which includes the contents specified in this Request for Proposals. All requirements and questions in this Request for Proposals must be addressed and all requested data must be supplied. The Housing Authority of the City of Riverside reserves the right to request additional information that, in the Housing Authority's opinion, is necessary to assure that the Respondents competence, number of qualified employees, business organization and financial resources are adequate to perform under a development and management agreement.

RCC envisions offering workshops and trainings to the resident group on-site, covering a variety of supportive services. These enhancement activities are expected to require an indoor common-area able to comfortably hold a group of 25, including when that group is meeting in several break-out sub-groups in the same space. Although RCC will neither manage the property nor make final selections of which students are to be allowed residence, RCC will provide information regarding the property to its foster youth population. All interested students will go through the property's application process to allow evaluation and final determination for residency in a process solely made by the property management team.



ORGANIZATIONAL AND AREA BACKGROUND

City of Riverside As of January 1, 2016, the City of Riverside (www.riversideca.gov) had an estimated population of 324,722 and is currently ranked the 12th largest city in California. Located in the Santa Ana River Valley approximately 60-miles east of Los Angeles and 100 miles north of San Diego, the City has historic roots, a progressive outlook, and a tradition of stable, elected civic leaders committed to maintaining a diversified economy, balanced land uses, quality developments and cultural amenities.

Housing Authority of the City of Riverside The Housing Authority (<https://riversideca.gov/housing/>) was created on November 7, 2006 to provide affordable housing opportunities through a variety of mechanisms and programs. The Housing Authority's mission is to preserve existing affordable housing, increase the supply of affordable housing units through new construction and acquisition and rehabilitation, and provision of homeownership opportunities through new construction and first-time homebuyer loan programs. The Housing Authority is committed to facilitating the creation of safe, quality, residential communities that provide a wide-range of housing types, styles and price points that benefit all of Riverside's residents.

Riverside Community College District Riverside City College (www.rcc.edu) is a dynamic and diverse college in the Inland Empire and is one of three colleges in the Riverside Community College District. From its opening in 1916 on the site of the former Poly High School, Riverside City College has grown to be one of California's leading community colleges and is a landmark in downtown Riverside. Serving more than 19,000 students each semester, Riverside City College provides students with a wide range of choices including associate's degree programs, transfer to a four-year college or university, or career certificates that prepare them to enter the workforce. Riverside City College is home to strong programs in liberal arts, science, performing arts, the School of Nursing and athletics.

Downtown Neighborhood Overflowing with historic riches, the Downtown neighborhood is home to more than a dozen historic sites listed on the National Register of Historic Places and more than thirty City-designated landmarks. A walking tour of Downtown offers pedestrians a tree- and arbor-shaded trip through California's architectural history, including prime examples of Spanish Colonial Revival, Mission Revival, California Bungalow, Beaux Arts and modern architectural style buildings. The seat of both City and County government, Downtown is also home to numerous businesses and cultural institutions. Major institutions and public facilities located in the Downtown include: Main Library; Riverside Metropolitan Museum; Riverside City College; Riverside Convention Center; County, State and Federal Courts; Mission Inn Museum; Riverside Art Museum; and, the University of California, Riverside, ARTSblock. There are several parks to enjoy in the Downtown neighborhood.





PROJECT SITE

The Project site is a prominent 0.60 acre (26,424 sq. ft.) site located at the northeast corner of Third Street and Fairmount Boulevard, one block west of Market Street in Downtown Riverside. Market Street is the main thoroughfare through the City of Riverside and provides access to mass transit. The Project site has the addresses 3855-3893 Third Street.

<u>Total Project Size:</u>	0.60 acre, 26,424 square feet
<u>Assessor's Parcel Numbers:</u>	213-071-006; 213-071-008; 2013-071-008
<u>General dimensions:</u>	165 feet by 158 feet
<u>General Plan:</u>	Downtown Specific Plan, Raincross District
Historic District:	Mile Square Northwest

Mixed use development, consisting of office, and residential uses are permitted within the Downtown Specific Plan, Raincross District, pursuant to the Downtown Specific Plan and Title 20 of the City Cultural Resources Code. Multi-family development of residential dwellings are permitted pursuant to the standards of the Downtown Specific Plan. Education services may be added to this development as an on-site amenity that is available exclusively to residents.

The Project will require approval of a Certificate of Appropriateness by the Cultural Heritage Board. Deviations from development standards may trigger additional development applications. A lot merger will also be required.

Educational Services - Under the Downtown Specific Plan, education and tutoring can be offered as an amenity available to Project residents only. Services can be offered in a common area of the Project. No stand-alone education element is allowed under the Downtown Specific Plan.

Link: <https://www.riversideca.gov/planning/cityplans-csp-downtown.asp>

Known Encumbrances/Dedications Required

A dedication of 2.82 feet will be required along the alley

A corner cutback will be required, based on a 27-foot curb return.

Owners of Record: Housing Authority of the City of Riverside





Design, build and operate a distinctive educational living community, with clean, comfortable, permanent accommodations and supportive services for foster youth.



The provision of decent, safe and affordable housing for these young people will exponentially increase their opportunities to get a good education and pursue their dreams.



Provide stable, safe and affordable housing to foster youth who are pursuing a college education, and those at risk of experiencing homelessness when they are no longer eligible for foster care.

INCOME RESTRICTIONS AND PROJECT SUPPORT

The project Site was acquired by the former Redevelopment Agency using Low and Moderate Housing funds. After dissolution of the Redevelopment Agency, the property was assumed by the Housing Authority of the City of Riverside. The residential development must remain affordable to low-income households (80% of Area Median Income and below) for at least 55 years.

2018 State Income Limits for Riverside County

HOUSEHOLD SIZE	1 PERSONS	2 PERSONS	3 PERSONS	4 PERSONS	5 PERSONS	6 PERSONS
80% of Median	\$37,750	\$43,150	\$48,550	\$53,900	\$58,250	\$62,550
50% of Median	\$23,600	\$27,000	\$30,350	\$33,700	\$36,400	\$39,100
30% of Median	\$14,150	\$16,460	\$20,780	\$25,100	\$29,420	\$33,740

As this project will serve youth transitioning from a foster care environment, it is anticipated that this project will functionally serve residents who are very low to extremely low income.

SUPPORT AVAILABLE FOR HOUSING DEVELOPMENT

Subsidy:

To encourage development of the Property, the City of Riverside and the Housing Authority of the City of Riverside will consider a land write-down and density bonus as a form of assistance, and possible gap financing assistance from the City of Riverside's HOME Investment Partnerships Program, former Redevelopment Housing Set-Aside, and other affordable housing resources.

Project Based Housing Vouchers:

The Housing Authority of the County of Riverside has indicated a willingness to allocate project-based vouchers, dependent upon availability at the time of application, and subject to approval by its Board.

Educational Program Support:

Riverside Community College District (RCCD) and Riverside City College (RCC) are committed to participate in partnership with the City of Riverside and in the Foster Youth RFP and Project. RCC currently provides a variety of services and programs designed for particular benefit to foster youth students through the Foster Youth and Guardian Scholars Program. Through the Guardian Scholars Program, students are eligible to receive book vouchers, gas cards, meal vouchers, and varied self-enhancement



workshops. In addition, they have access to computers and printers, device charger, and study space all within the Guardian Scholars Resource and Engagement Center. The Guardian Scholars Program all provides a single point of contact with our Foster Youth Specialist for assistance with every step of enrollment, community and campus resources and referrals.

Residents of the Project are expected to be comprised fully of RCC Foster Youth students, and all will be supported in their education and educational continuity by programs already in place at RCC (including academic counseling, career counseling and mapping, financial aid counseling, and job placement assistance). Students have transportation privileges on the local bus system, so transit between residence and school is easily manageable. RCC envisions offering workshops and trainings to the resident group on-site, covering a variety of supportive services. These enhancement activities are expected to require an indoor common-area able to comfortably hold a group of 25, including when that group is meeting in several break-out sub-groups in the same space. Although RCC will neither manage the property nor make final selections of which students are to be allowed residence, RCC will provide information regarding the property to its foster youth population. All interested students will go through the property's application process to allow evaluation and final determination to be solely made by the property management team.



PROPOSAL RESPONSE

The Housing Authority and the City of Riverside requires each developer to submit Proposals clearly addressing all of the requirements outlined in this RFP and any subsequently issued addenda. Each respondent is required to submit a proposal clearly addressing all of the requirements outlined in this Request for Proposals (RFP). The details of the proposal shall be limited to twenty (20) pages and must include the single person who will be the primary contact for the respondent. Résumés and company qualification data may be added to the 20-page proposal, provided this information is located in an Appendix at the back of the proposal.

Should the respondent have concerns about meeting any of the requirements of this RFP, the respondent shall include a clearly labeled subsection with individual statements specifically identifying any concerns and exceptions.

Though the respondent may submit a proposal organized according to his or her preference, the proposal submitted must be clear and concise, and contain the following required information.

1. **Cover Letter:** The cover letter (addressed to the City Housing Authority – contact staff below) shall include a brief general statement of intent to perform the services and confirm that all elements of the RFP have been reviewed and understood. The letter should include a brief summary of the Respondent's qualifications and Respondent's willingness to enter into a contract under the terms and conditions prescribed by this RFP. Please provide contact information for the person who should be the main point of contact during the selection process.
2. **Development Concept:** The respondent shall provide a development narrative, which shall include, but not be limited to the type of uses, a proposed layout for the Property including a site plan and conceptual elevations, a pro-forma (including sources and uses and cash flow consistent with the affordability period), project statistics with building square-footage and height, parking, residential unit and affordability mix, an anticipated investment amount, projected occupancy dates, a long-term investment strategy, and an anticipated duration of holding period. Also, identify the property management company(ies), and programming opportunities that will be provided and by whom.
3. **Note:** as part of the review process, the conceptual plans will be reviewed by the community; modifications may be requested.
4. **Development Experience:** The respondent shall provide a summary of experience in developing

complex projects that require interaction with a broad range of interested parties from both the public and private sectors. Specific experience in developing transitional/permanent supportive housing would be preferable given this project request. The following information is required:

- a. Name(s), address(es), telephone number(s) and e-mail address(es) of the respondent and identify the single person who will be the primary contact for the respondent.
 - b. Lead Developer's D&B DUNS number. To obtain a DUNS number, please obtain one by visiting Dun & Bradstreet at: <http://mycredit.dnb.com>.
 - c. Description of experience within the most recent ten-year period related that is similar in nature to this Request for Proposals. Provide name, contact information (e-mail address) for the staff member involved in each development.
 - d. Names and resumes of the key team members including architect, property manager and general contractor (if known). For each project reference, include the development team member's role in the completed project and the time period of his or her involvement.
 - e. Photographs showing completed projects that are similar in nature to the proposed development including construction costs, completion dates, locations, land uses, scales, scope of services, and the role of the respondent in these projects.
 - f. Experience in completing projects of the scale and complexity of the proposed development.
 - g. Any innovative aspects of previous development experience should be described in detail.
 - h. A discuss regarding how the proposed project will fit into the Downtown neighborhood and minimize any impacts to surrounding land uses.
5. Financial Strength: The respondent shall submit supporting documentation that demonstrates the respondent has the financial capacity to secure the necessary financing to implement the development. The proposal must include:
- a. Development budget;
 - b. Sources & Uses Statement;
 - c. 15-year pro-forma; and
 - d. Clear request of the form and amount of subsidy needed, if any, from the City of Riverside.
6. Service Partnerships: Demonstrate potential project partners that would directly impact this development, and the services that they might provide. Provide letters of intent, if available.
7. Prevailing Wages: The development may be subject State and Federal Prevailing Wage Requirements, which will be determined when proposals are reviewed. Please budget accordingly.
8. Project Timeline: The respondent shall indicate whether the requirement below is acceptable or propose a different timeline for due diligence/entitlements and construction period.

Proposals Due by no later than 4:00 p.m., on Thursday June 11, 2019

Proposal/Project timeline :

- a. Selection Period (review and respondent interviews): June 17 – July 5, 2019
- b. Community meetings: Summer of 2019
- c. Development Committee: Fall of 2019
- d. Development of Agreements (ERN): Winter of 2020
- e. Housing Authority/City Council approval of Disposition and Development Agreement: Spring of 2020
- f. Respondent Obtains Entitlements: Approval of the Disposition and Development Agreement: 24 months—Development and Disposition Agreement (DDA): During the DDA period, the applicant will be expected to obtain necessary entitlements, building permits and financing.
- g. 18 month Construction Period: The respondent shall provide a timeline for the construction phase of the proposed development from the close of escrow including construction start and completion dates. It is preferred that construction of the proposed development be completed as soon as possible, but no later than two (2) years from the close of escrow.
- h. Occupancy: Occupancy should occur not more than 3.5-years from the date the DDA is executed.

The Housing Authority and City will act as a project reviewer and will conduct the selection process. During the selection process, the Housing Authority and the City reserve the right to request clarification or additional information from individual respondents and to request some or all respondents to make presentations to Housing Authority and City staff or others.



SELECTION CRITERIA AND PUBLIC RECORDS

At a minimum, all qualified proposals will be evaluated based on the degree to which the proposal submitted includes the following criteria:

- Development narrative (10%)
- Development experience (30%)
- Financial strength of the respondent (30%)
- Project timeline (10%)
- Compliance with City's preferred development (20%), as detailed in the Overview.

Interviews

Selected respondents may be contacted for in-person interviews with the selection committee.

Recommendation to the Development Committee

The highest scoring identified via in-person interviews will be presented to the City's Development Committee for conceptual approval of the Project.

Recommendation to the City Council and/or Housing Authority Board

Once the Development Committee approves the conceptual Project it is then presented to the City Council and/or Housing Authority of the City of Riverside for final approval.

PUBLIC RECORDS

All proposals submitted in response to the RFP become the property of the Housing Authority under the Public Records Act (Government Code § 6250 et. seq.) are public records. As such, all proposals may be subject to public review at least ten (10) days before selection and award. If a respondent claims a privilege against public disclosure for trade secret or other proprietary information, such information must be clearly identified in the proposal. Personal information should be labeled as confidential and will remain so. Please note that under California law, a price proposal to a public agency is not a trade secret.



QUESTIONS AND INSTRUCTIONS

All requests for clarifications, changes, exceptions, deviations to the terms and conditions set forth in this RFP should be submitted in writing to:

Jeffrey B. McLaughlin, Ph.D.

Office of Homeless Solutions

jmclaughlin@riversideca.gov

The final day for the receipt of questions from the respondent shall be before 4 PM on May 30, 2019. To ensure fairness and avoid misunderstandings, all communications must be in written format and addressed only to the individual set forth above. Verbal communications will not be considered or receive a response. Written communications should be submitted via e-mail to the email address provided above. All questions received by the due date will be logged and reviewed and if required, a response will be provided via an addendum to the RFP. **Any communications, whether written or verbal, with any City Councilmember or City staff other than the individual indicated above, prior to award of a contract by City Council or the Housing Authority Board, is strictly prohibited and the respondent shall be disqualified from consideration.**

All questions posed and answers given will be in writing and posted as an addendum to this RFP, on the Housing Authority's web-page within approximately 5 working days of receipt:
<http://www.riversideca.gov/housing/rfp-opportunities.asp>

Please note: The Housing Authority shall not be liable for any expenses, which may include, but are not limited to, preparation of the proposal or related information in response to this RFP; negotiations with the Housing Authority on any matter related to this RFP; and costs associated with interviews, meetings, travel or presentations incurred by any respondent in relation to the preparation or submittal of the proposal. Additionally, the Housing Authority shall not be liable for expenses incurred as a result of the Housing Authority's rejection of any proposals made in response to this RFP.

All proposals are due by or before 4:00 PM on June 11, 2019. This time and date is fixed and extensions may not be granted. The Housing Authority does not recognize the United States Postal Service, its postmarks, or any other organization as its agent for purposes of dating the proposal. All proposals received after the deadline shown will be rejected, returned to sender and will not receive further consideration.





ALVORD UNIFIED SCHOOL DISTRICT

9 KPC Parkway Corona, CA 92879 | (951) 509-5000



SUBMISSION GENERAL TERMS

Mail (or hand-deliver) four (4) hard copies and one (1) electronic file of the proposal to:

Office of Homeless Solutions

Attn: Jeffrey McLaughlin, Ph.D.

3900 Main Street, 5th Floor

Riverside, CA 92522

Packaged responses should be simple and recyclable with no excessive bindings. Facsimile and email responses will not be accepted.

GENERAL TERMS AND CONDITIONS

During the negotiation process, the Housing Authority/City reserves the right to request modifications to the project design and concept upon feedback from the community and/or Authority/City's staff.

The successful Respondent selected will sign a Disposition and Development Agreement ("Agreement"). **No modifications to these agreements are permitted.** The respondent must meet all insurance requirements in the sample agreement (Attachment B). **All terms and conditions of this Agreement are non-negotiable.** Any modification to the Agreement by the Agency shall result in the proposal being rejected.

Failure to execute the Agreement and furnish the required insurance within 45-days of the Award letter date shall be just cause for the recession of the award. If the successful Agency refuses, or fails to execute the Agreement, the Housing Authority and/or City may award the Agreement to another qualified Developer.

The successful respondent will also be required to obtain and pay for all necessary municipal permits, licenses, and fees. Prior to performing any services, respondent and its subcontractors shall be required to have a City of Riverside Business Tax Registration valid for the life of the Agreements; and provide evidence of appropriate license. Please see: <https://www.riversideca.gov/finance/license.asp>.

Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity can materially affect the quality of the proposal. Proposals, which contain false or misleading statements, may be rejected. If, in the opinion of the Housing



Authority/City project review committee ("committee"), such information was intended to mislead the committee in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, the proposal will be rejected. Statements made by a Respondent shall also be without ambiguity, and with adequate elaboration, where necessary for clear understanding.

The Housing Authority/City reserves the right to: accept, reject, and evaluate any and all Proposals; to request additional information; modify this RFP, any of its key actions, dates, or any of its attachments, prior to the date fixed for submission of Proposals by issuance and posting of an Addendum to the Housing Authority's web-page; to extend the due-date of proposals for all respondents if deemed necessary by the Housing Authority, at its sole discretion. The Housing Authority/City also reserves the right to modify project parameters, with appropriate notice, should issues in the development process occur that are beyond the control of the City/Authority.



INSURANCE REQUIREMENTS

The selected respondent will provide and maintain, at their own expense, the insurance coverage and requirements specified by the City of Riverside in the attached sample agreement. The Insurance Certificate of Coverage is only required for the respondent selected for agreement award at which time the information must be provided. The City of Riverside/Housing Authority cannot enter into contracts with a respondent without the insurance.

Selected respondent must provide and maintain at the Agency's own expense or cause to be provided during the term of the Agreement, the insurance coverage and requirements specified below, insuring all operations in the related agreements.

Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law, covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$1,000,000 per each accident, illness or disease (occurrence) and not less than \$2,000,000 aggregate.

Property insurance covering all real and personal (non-expendable) property leased or purchased in connection with the Project in a form appropriate for the nature of such property, covering all risks of loss, excluding earthquake and flood, for 100% of the replacement value, with deductible, if any, acceptable to Authority and City, naming Authority and City as loss payee.

Organization shall cause any general contractor or agent working on the Project under direct contract with the Organization to maintain insurance of the types and in at least the minimum amounts described in subsections i. and ii. above, and shall require that such insurance shall meet all of the general requirements of subsections v., vi. and vii. below. Subcontractors working on the Project under indirect contract with Developer shall be required to maintain the insurance described in subsections i. and ii. above. Unless waived by Authority and City, liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insured Authority and City, and its officers, agents, employees and representatives.

The required insurance shall be provided under an occurrence form, and Organization shall maintain such coverage continuously throughout the term of this agreement. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

Each insurance policy required by this agreement shall contain the following clauses:

1. This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City of Riverside and Housing Authority of the City of Riverside."
2. It is agreed that the City of Riverside and Housing Authority of the City of Riverside is self-insured and any insurance maintained by it shall apply in excess of and not contribute with insurance provided by this policy."
3. The City of Riverside and Housing Authority of the City of Riverside and its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Riverside and Housing Authority of the City of Riverside.

Only
50%

of foster youth
will receive a high
school diploma.

Only
10%

of former foster
youth will attend
college, and of those

Only
3%

*will
graduate.*

PAYMENT

If the selected Developer is awarded Federal Grant funds in relation to the requested services all expenses are paid on a reimbursement basis. The City will not be responsible for costs incurred prior to the award date of grants.

The City of Riverside is not responsible for late payments resulting from invoices that are submitted late or that are incomplete.





EXHIBIT B – CADME MAP



3861, 3879, 3893 3rd Street

**Assessor Parcel Numbers: 213-071-006; 213-071-008;
2013-071-008**



1 inch = 50 feet
December 15, 2016
Aerial photograph taken February 2017. The City of
Riverside makes no warranty as to the accuracy or
completeness of the information on this map. This
map shall not be reproduced or distributed.
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Printed on 24x36 inch paper





EXHIBIT C – SAMPLE DISPOSITION AND DEVELOPMENT

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

HOUSING AUTHORITY OF THE CITY OF RIVERSIDE

and

“INSERT DEVELOPMENT PARTNER”

- 1. DEFINITIONS.....**
 - 1.1. Defined Terms
 - 1.2. Singular and Plural Terms
 - 1.3. Accounting Principles
 - 1.4. References and Other Terms
 - 1.5. Attachments Incorporated.....
- 2. REPRESENTATIONS AND TRANSFERS.....**
 - 2.1. Representations by the Developer
 - 2.1.1. Organization
 - 2.1.2. Authority.....
 - 2.1.3. Valid Binding Agreements
 - 2.1.4. Contingent Obligations.....
 - 2.1.5. Litigation.....
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DISPOSITION AND DEVELOPMENT AGREEMENT

(PROJECT NAME)

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (INSERT PROJECT NAME) (the “Agreement”) dated for identification purposes only as of _____, 2013, is made and entered into by and between the **HOUSING AUTHORITY OF THE CITY OF RIVERSIDE**, a public body, corporate and politic (the “Authority”), and **(INSERT DEVELOPMENT PARTNER** (the “Developer”), with reference to the following:

RECITALS

The following Recitals are a substantive part of this Agreement. Capitalized terms used in these Recitals and not otherwise defined shall have the meaning set forth in Section 1.1.

A. The Authority is a body, corporate and politic established by action of the City Council of the City of Riverside pursuant to Resolution No. 21275 for the purpose of providing affordable housing opportunities through a variety of programs within the City of Riverside and exercising governmental functions and powers pursuant to the California Housing Authorities Law (Health & Safety Code § 34200, et seq., the “Housing Authority Law”).

B. The City of Riverside (the “City”) has adopted a Housing Element to its General Plan pursuant to Government Code Section 65580 et seq., which sets forth the City’s policies, goals and objectives to provide housing to all economic segments of the community, including the preservation and development of rental housing affordable to very low income, low income and moderate income households.

C. By action of the City Council pursuant to Chapter 2 of the California Community Redevelopment Law (Health & Safety Code § 33000 *et seq.*, the “Community Redevelopment Law”), the City established the Redevelopment Agency of the City of Riverside (the “Agency”), whose purpose included increasing, improving and preserving the community’s supply of housing affordable to and occupied by low and moderate income households pursuant to Section 33334.2, 33334.3, 33334.6 and 33413 of the Community Redevelopment Law.

D. On December 29, 2011 in the petition *California Redevelopment Association v. Matosantos* (Case No. S194861), the California Supreme Court upheld Assembly Bill X1 26 that added Parts 1.8 and 1.85 to Division 24 of the Health and Safety Code (“Dissolution Act”), which laws caused the dissolution of all redevelopment agencies in California as of February 1, 2012.

E. As of, on, and after February 1, 2012, the Agency became a dissolved redevelopment agency pursuant to the Dissolution Act.

F. By the adoption of its Resolution No. 22322 on January 10, 2012, the City Council re-affirmed its authorization to have the City serve as the “Successor Authority” to the dissolved Agency under the Dissolution Act. As of, on, and after February 1, 2012, the City began to perform and will continue to perform its functions as the Successor Authority to the dissolved Agency under the Dissolution Act.

G. By adoption of its Resolution No. 22323 on January 10, 2012, the City Council elected not to have the City retain the responsibility for performing housing functions previously performed by the Agency following dissolution of the Agency and, instead, allowed the Housing Authority to make the election



authorized under the Dissolution Act to retain the housing assets and functions previously performed by the Agency.

H. By the adoption of its Resolution No. 7 on January 10, 2012, the governing board of the Authority elected to have the Authority assume the housing assets and housing functions previously held and performed by the dissolved Agency pursuant to the Dissolution Act, effective upon dissolution of the Agency. Accordingly, as of, on, and after February 1, 2012, the Housing Authority began to perform and will continue to perform its functions as the “successor housing agency” of the former Agency pursuant to the Dissolution Act.

I. The Authority has received funds designated for the purposes of increasing, improving and preserving the community’s supply of affordable housing, including rental housing available for occupancy at affordable rent to very low income, low income and moderate income households in the City.

J. The Authority is the owner of certain real property located at (INSERT ADDRESS) within the City of Riverside, California and further identified as Assessor Parcel Nos. (APN) (INSERT APNs) consisting of XXX acres (the “Site”) as depicted on the Site Plan (Attachment No. 1) and described in the Site Legal Description (Attachment No. 2).

K. The Developer is a California limited partnership and its managing general partner is an experienced affordable housing developer.

L. The Authority and Developer’s managing general partner, (INSERT DEVELOPMENT PARTNER), entered into that certain Exclusive Negotiating Agreement (INSERT PROJECT NAME) dated for identification purposes as of (INSERT DATE IF ANY) (the “ENA”), which provided for negotiations related to preparation of a definitive agreement for the Authority’s disposition of the Site to the Developer for development of approximately (INSERT UNIT COUNT) housing units to be made available to Qualified Households at rents consistent with the affordability requirements of the various funding sources.

M. Concurrent with the ENA, the Authority and (INSERT DEVELOPMENT PARTNER) entered into that certain Predevelopment Loan Agreement (INSERT PROJECT NAME), dated for identification purposes only as of (DATE) (the “Predevelopment Loan Agreement”), pursuant to which the Authority loaned (INSERT AMOUNT IF ANY) to (INSERT DEVELOPMENT PARTNER) (the “Predevelopment Loan”) for the purposed of providing financial assistance for Predevelopment Costs (as defined herein).

N. Following the conclusion of the negotiations under the ENA, the Authority and Developer desires to now enter into a definitive agreement by which:

(i) the Developer will acquire the Site from the Authority, improve the Site by constructing (INSERT UNIT COUNT) housing units, (INSERT UNIT COUNT) of which shall be restricted to occupancy Qualified Households at rents consistent with the affordability requirements of the various funding sources, and thereafter, operate and maintain the Site to provide quality affordable housing to Qualified Households; and

(ii) Authority desires to convey the Site and loan to Developer an aggregate amount not to exceed \$2,266,260 for predevelopment and construction related project expenses in accordance with this Agreement.

O. The provision of financial assistance to the Developer and the development of the Project pursuant to the terms and conditions of this Agreement are in the vital and best interest of the Authority and



the health, safety and welfare of the City's residents, and in accord with the public purposes and provisions of applicable federal, state and local laws, including (without limitation) the Authority's housing obligations.

NOW, THEREFORE, the Authority and the Developer hereby agree as follows:

1. DEFINITIONS

1.1. Defined Terms

As used in this Agreement, the following capitalized terms shall have the following meanings:

"Affordable Rent" means the amount of monthly rent, including a reasonable utility allowance, that does not exceed the lesser of the maximum allowable rent to be charged by Developer and paid by the Qualified Household, occupying the Affordable Units, as determined pursuant to (i) any applicable Tax Credit Regulatory Agreement, (ii) Section 92.252 of the HOME Regulations or any successor regulation, (iii) Section 50053 of the Health & Safety Code or any successor statute, (iv) applicable regulations pursuant to any other source of financing secured for, and continuing to be secured by, the Project, or (v) if applicable, any effective Section 8 Program regulations as to any Affordable Unit designated as a project-based Section 8 unit or otherwise occupied by a holder of a Rental Voucher or Rental Certificate evidencing participation in the Section 8 Program. For purposes of calculating Affordable Rent a "reasonable utility allowance" shall be the allowance established by the Tax Credit Rules or such lesser allowance reasonably permitted by the Authority including, but not limited to, the California Utility Allowance Calculator, if applicable.

"Affordable Units" means the twenty-nine (29) two and three-bedroom Units required to be maintained on the Site and available to, occupied by, or held vacant for occupancy, eight (8) Units which shall be available to Moderate Income, Service-Disabled Veteran Households, Moderate Income Veteran Households or Moderate Income Households, twelve (12) Units which shall be available to Qualified Low Income Service-Disabled Veteran Households, Qualified Low Income Veteran Households or Qualified Low Income Households and nine (9) Units which shall be available to Very Low Income Service-Disabled Veteran Households, Very Low Income Veteran Households or Very Low Income Households. Preference shall be given to households as identified in Section 6.3.3.

"Affordability Period" means the period commencing upon the recordation of the Release of Construction Covenants and terminating on the fifty-fifth (55th) anniversary thereof.

"Agreement" means this Disposition and Development Agreement, including all of the Attachments hereto, by and among the Parties.

"Assignment of Plans, Reports and Data" means that assignment attached hereto as Attachment No. 13.

"Authority" means the Housing Authority of the City of Riverside, a public body, corporate and politic.

"Authority Deed of Trust" means the Deed of Trust, Fixture Filing and Assignment of Rents in substantially the form attached as Attachment No. 8 to be executed by the Developer as Trustor, in favor of the Authority, as Beneficiary, and to be recorded as a lien against the Site securing the Authority Loan in accordance with the terms and conditions of this Agreement.



“Authority Loan” means the loan from the Authority to the Developer in an amount not to exceed Two Million Two Hundred Sixty Six Thousand Two Hundred Sixty Dollars (\$2,266,260).

“Authority Loan Documents” means the following documents evidencing the Authority Loan and required as consideration for the Authority to make the Authority Loan: (i) the Authority Promissory Note; (ii) the Authority Deed of Trust; (iii) the Authority Regulatory Agreement; (iv) the Assignment of Plans, Reports and Data; and (v) this Agreement.

“Authority Promissory Note” means the promissory note evidencing the Authority Loan in substantially the form shown in Attachment No. 7 hereto.

“Authority Regulatory Agreement” means the regulatory agreement which is to be recorded against the Site in substantially the form of Attachment No. 9.

“Capital Replacement Reserve” is defined in Section 6.5.

“Character Defining Features” shall include, but not limited to, the general architectural form, style, material, design, scale, proportions, organizations of windows, doors and other openings, details, mass, roof lines and all other aspects of the appearance of the exterior of the Officer’s Club, including but not limited to the historic appearance, texture, and finish of the Officer’s Club.

“City” means the City of Riverside, a California municipal corporation.

“City HOME Loan” is defined in Section 3.8.3.

“City HOME Loan Agreement” is defined in Section 3.8.3.

“City HOME Loan Documents” are defined in Section 3.8.3.

“Close” or “Closing” is defined in Section 4.3.10.

“Construction Contract” is defined in Section 3.2.

“Conversion” means the date upon which the Construction Loan is converted to the Permanent Loan.

“Conveyance” is defined in Section 4.1.

“County” means the County of Riverside, California.

“Developer” means (INSERT DEVELOPMENT PARTNER) and any permitted successors and assigns pursuant to section 2.2 of this Agreement.

“Developer Approval Period” shall be the one month period following the Effective Date.

“Disbursement Request” is defined in Section 3.4.

“Effective Date” means the date upon which this Agreement was approved by the Authority.

“Environmental Laws” means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Substance or Hazardous



Substance Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, *et seq.*), as heretofore or hereafter amended from time to time ("CERCLA"), and the applicable provisions of the California Health and Safety Code and the California Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

"Escrow" or "Escrows" mean the escrow or escrows for the Conveyance of the Site to the Developer as provided in Section 4.3.

"Escrow Agent" is Chicago Title at 701 B Street, Suite 760, San Diego, California 92101 or another qualified escrow company approved in writing by the Parties.

"Event of Default" means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 8.1.

"Evidence of Financing" is defined in Section 3.1

"Executive Director" means the Executive Director of the Authority or his/her designated representative.

"General Contractor" is defined in Section 3.2.

"Governmental Regulations" means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, environmental, labor relations, prevailing wage, notification of sale to employees, Hazardous Substance, occupational health and safety, water, earthquake hazard reduction and building and fire codes) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

"Grant Deed" means the grant deed in substantially the form of Attachment No. 6.

"Hazardous Substance" means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101), as amended from time to time, or now or hereafter otherwise classified or regulated pursuant to any Environmental Laws as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "infectious waste", "toxic substance", "toxic pollutant" or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or "EP toxicity", (ii) any asbestos or asbestos containing material, (iii) any polychlorinated biphenyls (PCB's), (iv) any ureaformaldehyde, and (v) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources. Notwithstanding the foregoing, "Hazardous Substances" shall not include any chemical, compound, material, mixture or substance used in the normal course of operating an apartment complex, so

long as such chemical, compound, material, mixture or substance is used in accordance with Environmental Laws.

“Hazardous Substance Activity” means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge, generation, processing, abatement, removal, disposition, treatment, handling or transportation of any Hazardous Substance from, under, into, on, above, around or across the Site or surrounding property or any other use of or operation on the Site or the surrounding property that creates a risk of Hazardous Substance contamination of the Site.

“HOME Program” is defined in Section 3.8.3.

“Housing Project Manager” means that person designated by the Executive Director to manage affordable housing projects within the City of Riverside.

“Investor” shall mean a person or entity who (i) is an experienced limited partner and investor in multifamily housing developments receiving low income housing tax credits issued by the State of California or the United States federal government and (ii) has obtained or is contractually obligated to obtain a limited partnership or limited liability company membership interest in the Project whereby it will receive 90 percent or more of the Tax Credits obtained in connection with the Project. Authority shall have the right to reasonable prior written approval of the identity of the Investor and of the terms and conditions of the limited partnership agreement or other agreement specifying the terms and conditions, including but not limited to terms and conditions concerning timing and amounts of cash contributions toward Project development costs in return for an interest in the Project and the right to receive Tax Credits.

“Loan Proceeds” is defined in Section 3.4.

“Management Plan” means the plan for the management of the Project to be submitted by the Developer and approved by the Authority, as set forth in Section 6.8 hereof.

“Manager Unit” shall mean up to one (1) Unit in the Project reserved for occupancy by an on-site manager of the Project who performs substantial duties directly related to the management and/or the maintenance of the Project.

“Marketing Plan” means the plan for the marketing of the Affordable Units to be submitted by the Developer and approved by the Authority, as set forth in Section 6.7 hereof.

“Moderate Income Service-Disabled Veteran Household” means a Service-Disabled Veteran Household whose gross annual income does not exceed one hundred twenty percent (120%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Moderate Income Household” means a Household whose gross annual income does not exceed one hundred and twenty (1200%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Moderate Income Veteran Household” means a Veteran Household whose gross annual income does not exceed one hundred twenty percent (120%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.



“Notice” means a notice in the form prescribed by Section 9.1.

“Operating Reserve” is defined in Section 6.6.

“Outside Closing Date” means December 2, 2014.

“Parties” means the Authority and Developer.

“Permanent Lender” means the maker of any Permanent Loan or beneficiary of any Permanent Loan Deed of Trust.

“Permanent Loan” means the Source of Financing in the form of a permanent loan to be made to the Developer at Conversion, secured against the Leasehold by the Permanent Loan Deed of Trust.

“Permanent Loan Deed of Trust” means the deed of trust securing the Permanent Loan that is first in priority and shall be senior to the Authority Deed of Trust.

“Predevelopment Costs” means predevelopment expenses which are customarily incurred and shall have been actually incurred by Developer in connection with the Project and shall include, without limitation, the following: architectural, engineering or related professional services required to prepare plans, specifications or work write-ups; application, commitment and/or origination fees in connection with construction and/or permanent financing contemplated by this Agreement; security services; land use entitlements and building permits; development fees; utilities fees; property insurance; title and other insurance, legal and accounting fees; tests to determine the condition of the Site; costs of environmental review; development impact fees; property taxes; fees for financial and advisory services and any other appropriate predevelopment costs identified in the Project Budget and reasonably approved by the Authority.

“Preservation Standards” mean:

(i) the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, and

(ii) the United States Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, and Restoring Historic Buildings,

as may be amended, restated or replaced from time to time.

“Project” means predevelopment activities related to the Site, the acquisition of the Site, construction of (INSERT UNIT COUNT) Affordable Units and one (1) Manager Unit and any improvements appurtenant thereto by the Developer upon the Site in accordance with Governmental Regulations and all applicable permits and entitlements and as described in Section 5.

“Project Budget” is attached hereto as Attachment 5.

“Project Costs” means all costs and expenses approved pursuant to this Agreement which are customarily incurred and shall have been actually incurred by Developer for the development of the Project and shall include, without limitation, the following: Predevelopment Costs; construction costs; construction and design fees; architectural and engineering costs and fees (if any); a construction management fee as set forth in the Project Budget; property taxes and assessments; security services; off-site improvements and permits (if any); building permits; utility fees; insurance; legal and accounting fees; escrow fees and costs;



title and title insurance; bonds; tests to determine the condition of the Site; and such other costs, fees and expenses, as agreed to in writing by the City; provided, however, that payment to parties related to Developer for Project Costs must not exceed reasonable and customary market rates.

“Property Manager” means the manager of the Project, as set forth in Section 6.8.

“Qualified Household” means a Qualified Low Income Service-Disabled Veteran Household, a Qualified Low Income Veteran Household, or a Qualified Low Income Household.

“Qualified Low Income Household” means a Household whose gross annual income does not exceed sixty (60%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Qualified Low Income Service-Disabled Veteran Household” means a Service-Disabled Veteran Household whose gross annual income does not exceed sixty (60%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Qualified Low Income Veteran Household” means a Veteran Household whose gross annual income does not exceed sixty (60%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Release of Construction Covenants” means the document which evidences the Developer’s satisfactory completion of the Project, as set forth in Section 5.17, in substantially the form of Attachment No. 11.

“Request For Notice of Default” means a request for notice of default to be recorded in accordance with Section 4.3.11 against the Site in substantially in the form shown in Attachment No. 12.

“Schedule of Performance” means that certain Schedule of Performance attached hereto as Attachment No. 4, setting out the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the Authority. The Authority authorizes the Executive Director to make such revisions to the Schedule of Performance as he/she deems reasonably necessary to effectuate the purposes of this Agreement.

“Service-Disabled Veteran Household” mean a household with a person who is a “service-disabled Veteran” within the meaning of 38 U.S.C. § 101(2).

“Site” means that certain real property referenced in Recital J above as delineated on the Site Plan (Attachment No. 1) and more particularly described in the Site Legal Description (Attachment No. 2).

“Site Legal Description” means the description of the Site which is attached hereto as Attachment No. 2.

“Site Plan” means the map of the Site and the proposed Project is attached hereto as Attachment No. 1.

“Social Programs” means social service and support activities provided by Developer or its designee relating to the economic and social needs of the tenants in the Project.



“Tax Credit Regulatory Agreement” means the regulatory agreement which may be required to be recorded against the Site with respect to the issuance of Tax Credits.

“Tax Credit Rules” means Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*, and the rules and regulations implementing the foregoing.

“Tax Credits” means Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*

“TCAC” means the California Tax Credit Allocation Committee.

“Title Company” is Chicago Title at 701 B Street, Suite 760, San Diego, CA 92101 or other qualified title company approved in writing by the Parties.

“Unit” or “Units” means the individual dwelling units within the Project to be constructed and operated by the Developer on the Site, in accordance with the terms and conditions of this Agreement.

“Very Low Income Service-Disabled Veteran Household” means a Service-Disabled Veteran Household whose gross annual income does not exceed fifty percent (50%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Very Low Income Household” means a Household whose gross annual income does not exceed fifty percent (50%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

“Very Low Income Veteran Household” means a Veteran Household whose gross annual income does not exceed fifty percent (50%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

1.2. Singular and Plural Terms

Any defined term used in the plural herein shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3. Accounting Principles

Any accounting term used and not specifically defined herein shall be construed in conformity with, and all financial data required to be submitted herein shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to the Executive Director.

1.4. References and Other Terms

Any reference to any document shall include such document both as originally executed and as it may from time to time be modified. References herein to Sections and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term “document” is used



in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms “including” and “include” mean “including (include), without limitation.”

1.5. Attachments Incorporated

All attachments to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. REPRESENTATIONS AND TRANSFERS

2.1. Representations by the Developer

The Developer hereby represents and warrants to the Authority as follows:

2.1.1. Organization

Developer is a duly organized, validly existing limited partnership in good standing under the laws of the State of California and has the power and authority to own and lease property and carry on its business as now being conducted. The copies of the documents evidencing the organization of Developer delivered to the Authority are true and correct copies of the originals as of the Effective Date.

2.1.2. Authority

The Developer has the legal power, right and authority to execute, deliver and enter into this Agreement and any and all other agreements and documents required to be executed and delivered by the Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and to perform and observe the terms and provisions of all of the above. The parties who have executed this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement are authorized to execute and deliver the same on behalf of the Developer and all actions required under Developer’s organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered pursuant hereto, have been duly taken.

2.1.3. Valid Binding Agreements

This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will constitute when so executed and delivered, legal, valid and binding obligations of Developer enforceable against it in accordance with their respective terms.

2.1.4. Contingent Obligations

The Developer does not have any material contingent obligations or any material contractual agreements (other than in connection with the development of the Project) which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

2.1.5. Litigation

To the Developer’s best knowledge, no action, suit or proceedings are pending or threatened before any governmental department, commission, board, bureau, agency or instrumentality to



which the Developer is or may be made a party or to which any of its property is or may become subject, which has not been disclosed to the Authority which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

2.1.6. No Conflict

Developer's execution and delivery of this Agreement and any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, and the performance of any provision, condition, covenant or other term hereof or thereof, do not or will not conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Developer, or any provision of the organizational documents of Developer, or will conflict with or constitute a breach of or a default under any agreement to which Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer, other than liens established pursuant hereto.

2.1.7. No Developer Bankruptcy

No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, receivership or other proceedings are pending or, to the best of Developer's knowledge, threatened against the Developer or any parties affiliated with Developer, nor are any of such proceedings contemplated by Developer or any parties affiliated with Developer.

Each of the foregoing representations shall be deemed to be an ongoing representation and warranty. The Developer shall advise the Authority in writing if there is any change pertaining to any matters set forth or referenced in the foregoing representations.

2.2. Limitation Upon Change in Ownership, Management and Control of Developer

2.2.1. Prohibition

The identity and qualifications of Developer's general partner as an experienced and successful developer and operator/manager of affordable housing are of particular concern to the Authority. It is because of this identity and these qualifications that Authority has entered into this Agreement with the Developer. Prior to the expiration of the Affordability Period, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement by assignment or otherwise, nor shall Developer make any total or partial sale, transfer, conveyance, encumbrance to secure financing (including, without limitation, the grant of a deed of trust to secure funds necessary for construction and permanent financing of the Project), distribution, assignment or lease of the whole or any part of the Site or any material change in the management or control of Developer without the prior written approval of Authority, except as expressly set forth herein. Any purported transfer, voluntary or by operation of law, in violation of this Section 2.2 shall constitute a default hereunder and shall be void and Authority shall have the cumulative options to terminate this Agreement and to seek all remedies available at law or equity.

2.2.2. Permitted Transfers by Developer

Notwithstanding any other provision of this Agreement to the contrary, Authority approval of an assignment of this Agreement or conveyance of the Site or any part thereof shall not be required in connection with any of the following:

- i. the conveyance or dedication of any portion of the Site to the City or other appropriate governmental agencies, or the granting of easements or permits to public utilities to facilitate the development of the Project;
- ii. subject to the restrictions of Section 6.3 hereof and as set forth in the Authority Regulatory Agreement, the rental of the Affordable Units to Qualified Households;
- iii. any requested assignment for financing purposes (subject to such financing being considered and approved by the Authority pursuant to Section 2.2 herein), including the grant of a deed of trust to secure funds necessary for construction and permanent financing of the Project;
- iv. any transfer of the Site or limited partnership interests in the Developer to (INSERT DEVELOPMENT PARTNER) or an entity controlled by (INSERT DEVELOPMENT PARTNER);
- v. any transfer to a limited partnership in which (INSERT DEVELOPMENT PARTNER) or an entity controlled by (INSERT DEVELOPMENT PARTNER), is the managing general partner. The term “control” as used in the immediately preceding sentence, means, with respect to an entity that is a corporation, the right to the exercise, directly or indirectly, of more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to an entity that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person;
- vi. any transfer of any limited partnership interest in the Developer; and
- vii. the removal of any of the general partners of the Developer by the limited partners of the Developer pursuant to the terms and conditions of the Developers Limited Partnership Agreement.

2.2.3. Authority Consideration of Requested Transfer

Except for a transfer permitted pursuant to Section 2.2.2, Developer shall provide Authority with thirty (30) calendar days’ prior written notice of its intent to assign or transfer and shall request any approval sought for such assignment or transfer described in Section 2.2.1 above. Such notice shall be accompanied by evidence regarding the proposed assignee’s or purchaser’s development, operation and management qualifications and experience and its financial commitments and resources sufficient to enable the Authority to evaluate the proposed assignee or purchaser is qualified and capable to perform the Developer’s obligations pursuant to this Agreement.

Within thirty (30) calendar days, or, if board or council approval is required, forty-five (45) calendar days, after the receipt of Developer’s written request for Authority approval of an assignment or transfer pursuant to this Section 2.2.3, Authority shall respond in writing either approving the proposed assignee or transferee or requesting further information required by Authority in order to determine whether or not to grant the requested approval. Upon receipt of such a request for further information, Developer shall promptly furnish to Authority such requested information.

An assignment or transfer approved by the Authority pursuant to this Section 2.2.3 shall not be effective unless and until the proposed assignee or transferee executes and delivers to the Authority an agreement in form reasonably satisfactory to Authority’s legal counsel assuming the obligations of Developer under the Authority Loan Documents. Thereafter, the assignor shall remain responsible to

Authority for performance of the obligations assumed by the assignee unless the Authority releases the assignor in writing.

2.2.4. Successors and Assigns

All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and the permitted successors and assigns of Developer.

3. FINANCING OF THE PROJECT

3.1. Sources of Financing

As set forth in the Project Budget, the parties anticipate that Project costs shall be financed with a combination of funds from the proceeds of the Authority Loan, the Construction Loan, Tax Credits, the City HOME Loan, and such other financing sources as secured pursuant to Section 3.8.

As a condition precedent to Authority's obligation to transfer the Site at the Closing, Developer shall submit to the Executive Director evidence that Developer has obtained, or will obtain prior to the Closing, sufficient commitments for (a) financing to finance the completion of the Project or (b) equity capital for completion of the Project, such that the Executive Director is reasonably satisfied based upon the review and findings of the Authority's financial consultant that the Project can be constructed and operated in accordance with this Agreement. Such evidence (collectively, the "Evidence of Financing") shall include, at a minimum:

i. If the Project is financed by a third party lender, final construction loan documents along with evidence reasonably satisfactory to the Executive Director that the lender intends to execute the same and provide an initial funding on the Closing. Any such agreement shall provide for notice of default to the Authority, and the right to cure required by Section 5.16.

ii. Evidence of such other loans or grants as may be required to pay (i) the amount of the "Construction Contract" (as defined in Section 3.2 below) for the Project, plus (ii) an amount equal to all consultant and loan fees, points, commissions, bond issuance costs, charges, furnishings, fixtures, taxes, interest, start-up costs, Developer's overhead and administration, and other costs and expenses of developing and completing the Project.

iii. A copy of the most recently prepared Annual Financial Statement for Developer or its general partner.

A final Project Budget and Evidence of Financing, including the amount of tax credit equity to be contributed by the Investor, and such evidence as may be required to satisfy the Executive Director that (a) Developer has obtained sufficient financing to construct and operate the Project during the Affordability Period, (b) that the interest rate to be charged on any financing is commercially reasonable, and (c) that the Project is financially feasible and able to meet its financial obligations as required hereby and by any other agreements binding upon the Project, and in accordance with the Project Budget.

3.2. Construction Contract

At least fifteen (15) days prior to the Conveyance, Developer agrees to deliver to Authority, for its review and approval, a fixed price or guaranteed maximum cost construction contract(s) (the "Construction Contract") for all of the improvements necessary to complete the Project, which Construction

Contract shall obligate a reputable and financially responsible general contractor(s) ("General Contractor"), capable of being bonded and licensed in California and with experience in completing the type of Project contemplated by this Agreement, to commence and complete the construction of those improvements in accordance with this Agreement and under the terms provided therein. The Construction Contract shall contain a schedule of values in such form as is reasonably satisfactory to Authority. Authority shall not unreasonably withhold its approval of the Construction Contract provided that such contract conforms to the requirements of this Agreement.

Each Construction Contract shall give Authority the right, but not the obligation, to cure defaults thereunder and to assume Developer's obligations and rights under the contract; provided that such right to cure and assume that contract shall be subject to the right, if any, of the Construction Loan lender. In addition, each Construction Contract shall provide, among other matters, that all change orders in excess of Fifty Thousand Dollars (\$50,000) must be approved by the Executive Director within five (5) Business Days. Further, each Construction Contract shall set forth a reasonably detailed schedule for completion of each stage of construction.

Authority approval of the Construction Contract shall not constitute a waiver by Authority of any breach or violation of this Agreement that is a result of acts that are or purport to be in compliance with or in furtherance of said Construction Contract.

In connection with delivery of the Construction Contract, Developer shall furnish Authority with a contractor's performance bond in an amount not less than one hundred percent (100%) of the costs for the applicable Project improvements and a payment bond guaranteeing contractor's completion of those improvements free from liens of material men, contractors, subcontractors, mechanics, laborers, and other similar liens. Said bonds shall be issued by a responsible surety company, licensed to do business in California and with a financial strength and credit rating reasonably acceptable to Authority and shall remain in effect until the entire costs for such improvements shall have been paid in full. Any such bonds shall be in a form reasonably satisfactory to Authority legal counsel. In lieu of the payment and performance bonds, Developer may provide (i) a guaranty, in such form as reasonably required by Authority, to be executed by Developer's parent for the lien free completion of the Project in accordance with this Agreement; or (ii) a letter of credit issued to Authority in the amount of not less than one hundred percent (100%) of the costs for the applicable improvements, in a form and from a financial institution approved by Authority, which approval shall not be unreasonably withheld.

3.3. Authority Loan

Authority hereby agrees to loan to Developer and Developer hereby agrees to borrow the Authority Loan in an amount not to exceed (INSERT AMOUNT IF ANY) from Authority pursuant to the terms and conditions of the Authority Loan Documents.

3.3.1. Funding

Authority shall make the Authority Loan to Developer from available funds allocated to the Authority pursuant to the Community Redevelopment Law and such other funds as reasonably determined by the Authority in its sole and absolute discretion. The Authority Loan shall be made in accordance with and subject to the terms and conditions set forth in the Authority Promissory Note, the Authority Deed of Trust and the Agreement.



3.3.2. Security for Authority Loan; Nonrecourse Obligation After Completion of Construction

The Authority Loan shall be evidenced by the Authority Promissory Note and shall be secured by the Authority Deed of Trust. In addition, Developer shall assign certain documents and agreements to Authority as collateral for the Authority Loan by executing the Assignment of Plans, Reports and Data. Following the recordation of the Release of Construction Covenants, the Authority Loan shall constitute a nonrecourse obligation of Developer such that the Authority shall resort only to the Site for repayment in the Event of Default by Developer and Developer shall have no further liability for repayment in the event the Site or portion thereof is foreclosed upon.

To the extent permitted by laws, Developer shall utilize in good faith and as practicable, and shall require its contractors and subcontractors to utilize in good faith and as practicable, lower income persons residing in the redevelopment project areas lying within the City's municipal boundaries in their hiring programs, in the construction and development of the Project consistent with the hiring preference authorization and \$100,000 contract threshold set forth by Health & Safety Code Section 33422.3. The ultimate determination of employment or contracting, however, shall remain with Developer and its contractors and subcontractors in their reasonable discretion.

3.3.3. Subordination

The Authority Deed of Trust shall be subordinate to the liens of the Authority Regulatory Agreement, the Construction Loan, the Permanent Loan and such exceptions to title as are approved by Authority in writing. In addition, Authority agrees to consider in good faith any other reasonable request by Developer for subordination of the Authority Deed of Trust to other loans obtained by Developer pursuant to Section 3.8 where Authority's interests are protected and secure. A Request for Notice of Default shall be recorded in the official records of Riverside County concurrent with any documents evidencing the subordination of the Authority Loan.

So long as the conditions set forth in this Section 3.3.3 are satisfied, the Authority Regulatory Agreement shall be subordinate to the liens of the Construction Loan and such exceptions to title as are approved by the Authority in writing.

The Authority Regulatory Agreement may be subordinated to any approved sources of permanent financing upon a finding by the Executive Director pursuant to Health & Safety Code Section 33334.14 and based upon evidence submitted by the Developer and/or lender that an economically feasible alternative method of financing on substantially comparable terms and conditions, but without subordination, is not reasonably available and the Authority obtains written commitments reasonably designed to protect the Authority's investment in the Event of Default.

The subordination by the Authority pursuant to this Section 3.3.3 shall be made in accordance with a subordination agreement in the form and substance approved by Authority's legal counsel which agreement shall include written commitments reasonably designed to protect the Authority's investment and covenants in the event of default, including, but not limited to, reasonable notice and cure rights ("Subordination Agreement").

3.4. Disbursement of Loan Proceeds

The loan proceeds of the Authority Loan shall be used for Project Costs in connection with the development of the Project.



Following the Closing, up to Two Million Two Hundred Sixty Six Thousand Two Hundred Sixty Dollars (\$2,266,260) of the proceeds of the Authority Loan (the “Loan Proceeds”) shall be made available for disbursement for Project Costs. Upon the Closing, the promissory note evidencing the Predevelopment Loan shall be cancelled and entry shall be made upon the Disbursement Record of the Authority Promissory Note of the disbursement of the amount of the Predevelopment Loan.

Upon satisfaction of the conditions precedent to the disbursement of the Loan Proceeds set forth in Section 3.6, the remaining Loan Proceeds shall be disbursed to Developer not later than thirty (30) days after receipt by the Housing Project Manager of a written disbursement request from the Developer (each, a “Disbursement Request”). The Disbursement Request shall set forth the amount of the requested disbursement of Loan Proceeds and shall certify that (a) all conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 have been and remain satisfied and (b) no Event of Default has occurred and is continuing under the Authority Loan Documents. The Authority shall use their best commercially reasonable efforts to wire transfer such disbursements when requested by Developer.

3.5. Retention

Except as provided herein, as to each Disbursement Request made to Authority for Project Costs, disbursements of Loan Proceeds shall be made for such item in the amount of ninety percent (90%) of the costs for such item properly incurred and substantiated by Developer during the course of the Project. Upon satisfaction of the conditions set forth in Section 3.7, Authority shall disburse Loan Proceeds in the amount of Ninety Percent (90%) of each Disbursement Request for Project Costs, provided, however, that the amounts so retained on account of rough grading, wet and dry utilities, concrete foundations, and framing shall be released on a trade by trade basis, so long as (a) the construction of the trade improvements has been completed substantially in accordance with the Plans and has been fully paid for and is lien free, and (b) all work requiring inspection or certification by any governmental agency has been completed and all requisite certificates, approvals and other necessary authorizations have been obtained.

Notwithstanding the foregoing, as to each Disbursement Request made to Authority for Project Costs that constitute payment of City permits and development impact fees related to the Project or the payment of “soft costs,” disbursements of Loan Proceeds shall be made for such item in the amount of one-hundred percent (100%) of the costs for such item properly incurred and substantiated by Developer during the course of the Project.

Upon satisfaction of the conditions precedent to the disbursement of the Retention set forth in Section 3.7, the proceeds shall be disbursed to Developer not later than thirty (30) days after receipt by the Housing Project Manager of a written disbursement request from the Developer (the “Final Disbursement Request”). The Final Disbursement Request shall set forth the amount of the requested disbursement of Loan Proceeds and shall certify that (a) all conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 have been and remain satisfied and (b) all conditions precedent to disbursement of the Retention set forth in Section 3.7 have been and remain satisfied. The Authority shall use their best commercially reasonable efforts to wire transfer such disbursement when requested by Developer.

3.6. Conditions Precedent to Disbursement of the Loan Proceeds

All disbursements of Loan Proceeds shall be recorded by the Housing Project Manager and acknowledged by the Developer on “Exhibit ‘A’” to the Authority Promissory Note. Authority shall authorize



the disbursement of Loan Proceeds to or on behalf of Developer for Project Costs only upon satisfaction of the conditions precedent set forth in this Section 3.6.

3.6.1. Execution and Delivery of Authority Loan Documents

Developer shall have executed and delivered to the Authority: this Agreement, the Authority Regulatory Agreement, the Authority Promissory Note, the Authority Deed of Trust, and the Assignment of Plans, Reports and Data.

3.6.2. Evidence of Financing

The Executive Director has approved the Evidence of Financing in accordance with Section 3.1.

3.6.3. Evidence of Insurance

Developer shall have furnished Authority with proper evidence of insurance as required by Section 7.2.

3.6.4. Title to Land

Developer has good and marketable fee title to the Site and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and assessments not yet due and payable, the deeds of trust approved by the Authority and any other matters approved in writing by the Authority.

3.6.5. Recordation and Priority of Authority Regulatory Agreement

The Authority Regulatory Agreement will be executed and recorded as a lien against the Site before the liens of the Authority Loan and subordinate only to those liens permitted pursuant to Section 3.3.3.

3.6.6. Recordation of the Authority Deed of Trust

The Authority Deed of Trust shall have been recorded as a lien against the Site and subordinate only to those liens permitted pursuant to Section 3.3.3.

3.6.7. Title Policy

Concurrently with the recordation of the Authority Deed of Trust, the Title Company shall issue and deliver to the Authority an extended ALTA lender's policies of title insurance in an amount equal to the Authority Loan, together with such endorsements as requested by the Authority, insuring that fee simple title to the Site is vested in Developer and that the priority of the Authority Deed of Trust and the Authority Regulatory Agreement are consistent with Section 3.3.3. The Title Company shall provide Developer with copies of such title policy. The Title Company shall, if requested by either Authority, provide any extended coverage and any endorsements reasonably requested by Authority (collectively, the "Additional Endorsements"). The Developer shall pay the cost of such title policies.

3.6.8. Construction Contracts

Developer shall have submitted to Authority and Authority shall have approved the Construction Contract entered into in connection with the development of the Project.



3.6.9. Construction Bonds; Completion Guaranty

Developer shall furnish Authority with a completion bond guaranteeing General Contractor's completion of the improvements for the Project free from liens of material men, contractors, subcontractors, mechanics, laborers, and other similar liens. Said bonds shall be issued by a responsible surety company, licensed to do business in California, and with a financial strength and credit rating reasonably acceptable to Authority and shall remain in effect until the entire costs for such Improvements shall have been paid in full. Any such bonds shall be in a form reasonably satisfactory to the Authority's legal counsel and the City Risk Manager. In lieu of the performance bonds, Developer may provide a letter of credit issued to Authority in the amount of not less than one hundred percent (100%) of the costs for the applicable Improvements, in a form and from a financial institution approved by Authority, which approval shall not be unreasonably withheld.

3.6.10. Environmental Compliance

All federal, state and local environmental requirements applicable to the Project, including without limitation, the National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C. Sections 4321-4347 and the California Environmental Quality Act California Public Resources Code Section 21000, et seq., have been satisfied.

3.6.11. Evidence of Eligible Project Costs

Developer shall have submitted to Authority paid invoices, receipts, canceled checks or other written documentation reasonably satisfactory to the Executive Director evidencing Developer's expenditure for Project Costs.

3.6.12. No Default

There shall exist no condition, event or act which would constitute an Event of Default by Developer (as defined in Section 8.1) hereunder or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default by Developer.

3.6.13. Representations and Warranties

All representations and warranties of Developer herein contained shall be true and correct in all material respects.

3.7. Conditions Precedent to Disbursement of Retention

Upon satisfaction or waiver of the conditions precedent set forth below, as reasonably determined by the Executive Director, Authority shall disburse the Retention.

No disbursement of the Loan Proceeds shall be made for the Retention until all of the following conditions precedent have been satisfied (as determined by Authority in its discretion) or waived:

3.7.1. Compliance With Previous Conditions

Developer shall be in compliance with the conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6.

3.7.2. Completion of Construction

a. The construction of the Project shall be complete. The construction of the Project shall be considered complete for purposes of this Agreement only when (a) the construction of the Improvements has been completed substantially in accordance with the Plans and has been fully paid for, or will be fully paid for upon reimbursement of the retention and is lien free, (b) all work requiring inspection or certification by any governmental agency has been completed and all requisite certificates, approvals and other necessary authorizations have been obtained (including, without limitation, temporary certificate(s) of occupancy for the Improvements which shall be subject only to conditions reasonably acceptable to Authority), and (c) streets and offsite utilities located within or pertaining to the Project have been completed to the satisfaction of all applicable authorities.

b. Any portion of the Project requiring inspection or certification by any governmental agency shall have been inspected and certified as complete, a final certificate of occupancy shall have been issued covering the Project and all other necessary approvals, licenses, exemptions and other authorizations of governmental agencies shall have been duly obtained.

c. At least one of the following shall have occurred:

(i) 35 days shall have passed since the recording of a valid notice of completion for the construction of the Project and no mechanic's or materialman's lien shall be outstanding; or

(ii) 95 days shall have passed since actual completion of the construction of the Project and no mechanic's or materialman's lien shall be outstanding; or

(iii) Authority shall be satisfied that no mechanic's or materialman's lien will impair its interest in the Site, Authority hereby agrees to consider that a CLTA Form No. 101.1 Endorsement to the Title Policy, in form and substance reasonably satisfactory to Authority, may satisfy the requirement of this subparagraph (iii).

d. Authority shall be reasonably satisfied that the Project was completed in accordance with all applicable Governmental Regulations in all material respects, including, without limitation, all laws described in any Prevailing Wage Clause.

e. All requirements for release of retention set forth in this Agreement have been met.

f. Authority has issued and Developer has recorded a Release of Construction Covenants.

3.8. Other Sources of Financing

3.8.1. Construction Loan

Developer shall obtain funds by way of the Construction Loan which lender shall be approved by the Authority and which approval shall not be unreasonably withheld. The terms and provisions of the Construction Loan shall be similar to ordinary and customary provisions of construction lenders on loans similar to the Construction Loan. The Construction Loan shall provide for normal and customary disbursement controls, the payment of normal and customary fees and expenses for a loan of similar size and purpose, and for the payment of other expenses contained in the Project Budget.



Documentation for the Construction Loan shall be subject to the review and approval of the Authority, which shall not be unreasonably withheld.

The Construction Loan shall have the terms and conditions generally available to Developer in the market place and more specifically shall be:

- a. an original principal amount (not including interest that may accrue thereon) as set forth in the Project Budget;
- b. the term of the Construction Loan shall be for at least twelve (12) months (exclusive of the Lender's right to accelerate the maturity in the event of a default);
- c. the Construction Loan shall be secured by a lien on the Site, which lien shall be in the form and substance as reasonably required by the Construction Lender and approved by the Authority; and
- d. the Construction Loan shall have such other customary and normal terms and conditions as are reasonably required by lender making the Construction Loan and approved by the Authority.

3.8.2. Permanent Loan

Developer shall obtain funds by way of the Permanent Loan which lender shall be approved by the Authority and which approval shall not be unreasonably withheld. The terms and provisions of the Permanent Loan shall be similar to ordinary and customary provisions of construction lenders on loans similar to the Permanent Loan. Documentation for the Permanent Loan shall be subject to the review and approval of the Authority, which shall not be unreasonably withheld.

3.8.3. Tax Credits

Developer anticipates an award from TCAC of nine percent (9%) Low Income Housing Tax Credits pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*, for the Project. The Developer anticipates the Tax Credits syndication proceeds will be in an amount set forth in the Project Budget. The Parties acknowledge that in order to receive the allocation of Tax Credits for the Project, the Developer must satisfy certain conditions established by TCAC and must subject the Site to certain covenants and restrictions pursuant thereto as set forth in that the Tax Credit Regulatory Agreement to be recorded against the Site.

3.8.4. City HOME Loan

City is in the process of appropriating a loan to Developer, from available funds pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, *et seq.*, and the implementing regulations thereto set forth in 24 CFR Section 92.1, *et seq.* (collectively, the "HOME Program") by way of a HOME Partnership Investment Loan Agreement (the "City HOME Loan Agreement") in an amount not to exceed Six Hundred Thirty Two Thousand Seven Hundred Thirty Two Dollars (\$632,732) (the "City HOME Loan").

The City HOME Loan shall be evidenced by the City Promissory Note, which shall be secured by the recordation of the City Deed of Trust against the Site, and subject to the covenants set forth



in the City Regulatory Agreement (collectively and together with the City Home Loan Agreement, the “City HOME Loan Documents”).

3.8.5. Developer Financing

Developer’s partners may provide financing to the Project. In the event that such developer financing is utilized, interest and fees shall not exceed reasonable and customary interest and fees for similar commercial loans.

3.8.6. Additional Sources of Financing

The Developer and Authority agree to work together to obtain additional sources of financing for unfunded budgeted project costs, if any, and/or reduce the total amount of the Authority Loan. Developer agrees to exercise diligent efforts to identify and obtain additional sources of financing. If and to the extent that the Parties successfully obtain additional sources of financing, such funds shall be allocated first to fund Project Costs, if any, in excess of the costs identified in the final Project Budget, and second 50% to payment of deferred developer fee and 50% to reduce the amount of the Authority Loan.

3.8.7. Rights of Termination in the Event of Insufficiency of Funds

If at any time prior to the funding of the Construction Loan and recordation of the Construction Loan Documents, the Parties estimate that the aggregate amount of the sources of funds set forth in Section 3, *et seq.*, is less than the Project Costs necessary to complete the Project, the Parties shall meet to identify potential supplemental funding sources and shall diligently pursue such additional funds.

So long as the Developer demonstrates to the satisfaction of the Executive Director that the Developer is diligently pursuing additional funds to complete the Project, times for performance as set forth in the Schedule of Performance shall automatically extend up to twelve (12) months (the “Extension Period”). During the Extension Period, the Developer shall continue to maintain the Site in accordance with the requirements of this Agreement.

In the event the Parties are unsuccessful in securing additional funds necessary for the Project, the Parties shall meet and confer in good faith to modify the Project to allow partial completion with available funding sources. If the Parties reasonably determine that modification and partial completion of the Project renders the Project financially infeasible, Developer may request that Authority provide additional funding for completion of the Project.

Authority shall have 45 days to consider and act upon such additional funding request. In the event that the Authority declines to provide a firm commitment by way of formal resolution to commit the necessary additional funds, Developer may terminate this Agreement.

In the event that Developer desires to terminate the Agreement, Developer shall promptly notify the Authority in writing of its intent. Notwithstanding the foregoing, Developer’s indemnification obligations under this Agreement shall remain in force following such termination with respect to any events occurring or claims accruing prior to the date of termination.

After the funding of the Construction Loan and the Authority Loan and recordation of the liens thereto, Developer shall be solely responsible for all remaining Project Costs and shall be obligated to complete the Project substantially in accordance with this Agreement.



3.9. Obligation to Update Project Budget

Developer shall update the Project Budget in the event of a proposed material change to the Project Budget. In the event of a proposed material change to the Project Budget, Developer shall notify Authority in writing of the nature of the proposed change, including a detailed description of the effect of such change, and submit a revised, pro forma Project Budget reflecting such change to Authority. Authority shall have the right to approve such change prior to Developer taking any action in furtherance of such change.

4. **DISPOSITION OF SITE**

4.1. Conveyance of Site to Developer

Subject to all of the terms and conditions set forth in this Agreement, Authority agrees to convey to Developer, and Developer agrees to acquire from Authority, all of Authority's right, title, and interest in and to the Site, together with all rights, privileges, tenements, hereditaments, rights-of-way, easements, and appurtenances thereto, if any, (the "Conveyance").

Subject to the provision of Section 4.3.4, Developer shall deliver into Escrow any sums necessary to satisfy Developer's share of the Escrow Costs and Authority shall deliver into Escrow any sums necessary to satisfy Authority's share of the Escrow Costs, if any.

The Authority shall convey all of Authority's interest in and to the Site to Developer by the Grant Deed.

4.2. Condition of the Site

4.2.1. Disclosure

Prior to the Effective Date, Authority has delivered to Developer copies of any environmental reports in the possession of the Authority. Other than as may be disclosed by such environmental reports, Authority hereby represents and warrants to Developer that Authority has not received any additional written notice or communication from any government agency having jurisdiction over the Site, notifying Authority or any third party of, and Authority has no additional actual knowledge of, the presence of surface or subsurface zone Hazardous Materials in, on, or under the Site, or any portion thereof.

4.2.2. Developer's Investigation of the Site

Prior to the expiration of the Developer Approval Period, Developer shall have the right to access the Site during regular business hours and upon reasonable Notice to the Authority for the purpose of obtaining data and conducting surveys and tests, including but not limited to environmental, soils, and engineering assessments. Any surveys, tests, or other assessments concerning the Site by Developer shall be done at its sole expense and only after the Developer party has secured any necessary permits from the appropriate governmental agencies and shall be pursuant to a right of entry in form approved by the Authority. Developer hereby indemnifies and holds the Authority harmless from any injury or damages arising out of any activity of Developer, its agents, employees and contractors, performed and conducted on the Site pursuant to this Section 4.2.2.

4.2.3. Acceptance of Condition of Site

Unless this Agreement is earlier terminated in accordance with Section 8.6 et seq., Developer will be deemed to have approved the physical and environmental condition of the Site upon the expiration of the Developer Approval Period.

4.2.4. No Further Warranties As To Site; Release of City and Authority

Except for the representations and warranties herein, upon the Closing, the physical and environmental condition, possession or title (as the case may be) of the Site is and shall be delivered from Authority to Developer in an “as-is” condition, with no warranty expressed or implied by the Authority, including without limitation, the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder.

Except for obligations of Authority set forth in this Agreement, upon the Closing, Developer hereby waives, releases and discharges forever City and Authority, and their employees, officers, agents, and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with City’s, Authority’s, or Developer’s use, maintenance, ownership, or operation of the Site, except those arising out of the sole negligence or misconduct of City and/or Authority, or their employees, officers, agents, or representatives.

Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

As such relates to this Section 4.2, and excepting those obligations of the Authority set forth in this Agreement, Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

4.3. Escrow

Within the time specified in the Schedule of Performance, the Parties shall open escrow (the “Escrow”) for the Conveyance with Escrow Company.

4.3.1. Escrow Instructions

This Agreement constitutes the joint escrow instructions of Developer and the Authority for the Conveyance, and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. Any amendment of these escrow instructions shall be in writing and signed by Developer and Authority. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment. All communications from the Escrow Agent to Developer or Authority shall be directed to the addresses and in the manner established in Section 9.1 for Notice between Developer and Authority. Insurance policies for fire or casualty are not to be transferred, and Authority will cancel its own policies, if applicable, after the Closing.



4.3.2. General Provisions Applicable to Escrow Agent

The following general provisions shall be applicable to the Escrow Agent.

a. All disbursements shall be made by check or wire transfer of the Escrow Agent. All funds received in the Escrow shall be deposited in a separate interest-earning escrow account with any bank doing business in the State of California and approved by Developer.

b. The Parties to the Escrow jointly and severally agree to pay all costs, damages, judgments and expenses, including reasonable attorneys' fees, suffered or incurred by the Escrow Agent in connection with, or arising out of the Escrow, including, but without limiting the generality of the foregoing, a suit in interpleader brought by the Escrow Agent. In the event that the Escrow Agent files a suit in interpleader, the Escrow Agent shall be fully released and discharged from all obligations imposed upon the Escrow Agent in the Escrow.

c. All prorations and/or adjustments called for in the Escrow shall be made on the basis of a thirty (30) day month unless the Escrow Agent is otherwise instructed in writing.

4.3.3. Authority of Escrow Agent

The Escrow Agent is authorized to, and shall:

a. pay and charge Developer and Authority for any Escrow Costs payable under Section 4.3.4;

b. pay and charge Authority any amount necessary to place title in the condition necessary to satisfy Section 4.3.5;

c. pay and charge Developer for the premium of the Authority Title Policy and the Developer Title Policy as set forth in Section 4.3.6 and, if applicable, pay and charge Developer for any upgrade of the Developer Title Policy or Additional Endorsements to the Developer Title Policy which are requested by Developer pursuant to Section 4.3.6;

d. disburse funds and record and deliver to Developer the Grant Deed when both Developer's Conditions Precedent to Closing and the Authority's Conditions Precedent to the Closing are satisfied or waived in writing by the Party for whom the condition was established;

e. insert appropriate amounts and the date of the Closing in documents deposited by the Parties in the Escrow;

f. do such other actions as necessary to fulfill the Escrow Agent's obligations under this Agreement, including, if applicable, obtaining the Developer Title Policy and the Authority Title Report recording any instrument delivered through Escrow if necessary and proper in the issuance of such title policies;

g. within the discretion of the Escrow Agent, direct Developer and Authority to execute and deliver any instrument, affidavit or statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act or regulation promulgated thereunder. Authority agree to execute a Certificate of Non-Foreign Status by individual transferor, a Certificate of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act and/or a California Franchise Tax Board Form 590 or similar form to assure Developer that there exist no withholding requirements imposed by application of law as may be required by the Escrow Agent, on forms supplied by the Escrow Agent;



h. prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms, including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms and/or withholding are provided for or required by law; and

i. prepare and deliver to Developer and Authority for their review and approval prior to the Closing a settlement statement.

4.3.4. Escrow Costs

Developer shall pay the costs of documentary stamps on the Grant Deeds, the costs of recording charges, all other customary and usual Escrow fees, charges and costs which arise from the Escrow. Upon request by Developer, Authority shall disburse Authority Loan proceeds to Escrow for the purpose of paying the documentary transfer tax, if applicable, and such tax shall constitute a Project Cost.

4.3.5. Review of Title

Within the time specified in the Schedule of Performance, the Parties shall cause the Title Company to deliver to Developer a standard preliminary title report with respect to the Site, together with legible copies of the documents underlying the exceptions (the "Exceptions") set forth in the preliminary title report (collectively, the "Preliminary Title Report").

Developer shall have thirty (30) days from Developer's receipt of the Preliminary Title Report to give Notice to Authority and the Escrow Agent of Developer's approval or disapproval of the Preliminary Title Report, including without limitation any Exceptions. If Developer notifies Authority of Developer's disapproval of any items, Authority shall have the right, but not the obligation, to remove any disapproved items after receiving Notice of Developer's disapproval or provide assurances reasonably satisfactory to Developer that such items will be removed or remedied on or before the expiration of the Developer Approval Period. Authority shall exercise such right by Notice to Developer within ten (10) days of receipt of Notice from Developer of Developer's disapproval. If Authority cannot or does not elect to remove any disapproved items, Developer may, at its election, deliver Notice to the Authority that Developer intends to proceed with the Conveyance subject to the disapproved items by way of the Notice to Proceed or (ii) give Authority Notice that Developer does not elect to accept the Conveyance and elects to terminate the Escrow and this Agreement, whereupon any sums deposited by Developer into Escrow and all interest earned thereon shall be returned to Developer. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "Permitted Exceptions" and/or the "Condition of Title." Developer shall have the right to approve or disapprove in the manner provided in this Section any Exception reported by the Title Company or otherwise discovered after Developer has approved the Condition of Title (which are not created by Developer). Notwithstanding anything herein to the contrary, Authority shall remove prior to Closing all monetary liens other than non-delinquent taxes and assessments.

4.3.6. Title Insurance

a. Developer Title Insurance. Concurrently with the recordation of the Grant Deed, the Title Company shall issue and deliver to Developer, at Developer's cost, an CLTA owner's policy of title insurance, together with the Approved Endorsements (the "Developer Title Policy"), insuring that fee simple title to the Site is vested in Developer in the Condition of Title. The Title Company shall provide Authority with a copy of the Developer Title Policy. The Developer Title Policy shall be in an amount reasonably determined by Developer and shall be issued at the exact date and time of Closing; provided, however, that



the Title Company shall, if requested by Developer, provide ALTA extended coverage policy as needed and any endorsements reasonably requested by Developer (collectively, the “Additional Endorsements”). The additional cost of such ALTA extended coverage and the Additional Endorsements shall be borne by Developer. Authority shall, at no cost or expense to Authority, cooperate with and assist Developer in obtaining such ALTA extended coverage and any Additional Endorsements, including required indemnities that are customary and reasonable, or special coverage reasonably requested by Developer.

b. Authority Title Insurance. Concurrently with the recordation of the Authority Deed of Trust as a lien against the Site, the Title Company shall issue and deliver to Authority, respectively, at Developer’s cost, an ALTA standard form lender’s policy of title insurance, together with the Approved Endorsements (the “Authority Title Policy”), insuring that (i) fee simple title to the Site is vested in Developer in the Condition of Title, and (ii) the Authority Regulatory Agreement and the Authority Deed of Trust are liens against the fee estates held by Developer. The Title Company shall provide Developer with a copy of the Authority Title Policy. The Authority Title Policy shall be in the amount of the Authority Loan and shall be issued at the exact date and time of Closing; provided, however, that the Title Company shall, if requested by Authority, provide any extended coverage and any endorsements reasonably requested by Authority (collectively, the “Additional Endorsements”).

4.3.7. Authority’s Conditions Precedent to Closing

Authority’s obligation to close Escrow is conditioned upon the satisfaction or written waiver by Authority of each and every one of the conditions precedent a. through n., inclusive, described below (the “Authority’s Conditions Precedent to Closing”), which are solely for the benefit of Authority, and which shall be satisfied or waived by the time periods provided for herein:

a. Authority Loan Documents. Developer shall have executed and delivered into Escrow the Authority Loan Documents and such other documents as may be reasonably requested by Authority in connection therewith and all of which shall be in a form acceptable to Authority.

b. Notice to Proceed. Developer shall have timely issued the Notice to Proceed.

c. Physical and Environmental Condition of Site. Prior to the expiration of the Developer’s Approval Period, Developer shall not have elected to cancel Escrow and terminate this Agreement due to the physical or environmental condition of the Site.

d. Escrow Costs. Developer shall have deposited into Escrow the Developer’s share of Escrow Costs along with any other required costs of Closing.

e. Lenders’ Title Policy. The Title Company shall, upon payment of the Title Company’s regularly scheduled premium, be irrevocably committed to issue the Lenders’ Title Policy upon the Closing, in accordance with Section 4.3.6.

f. Financing. The Executive Director has approved Evidence of Financing in accordance with Section 3.1.

g. Project Budget. Developer has submitted and the Executive Director has approved a Project Budget dated as of Closing.

h. Schedule of Performance. Developer has submitted and Authority has approved a Schedule of Performance dated as of Closing.



i. Construction Contract. Developer shall have submitted to the Authority and the Authority shall have approved Construction Contracts with a duly licensed, insured and bonded contractor or contractors providing for the development of the Project in conformance with the terms of this Agreement.

j. Performance Bond. Developer shall have delivered the contractor's performance bond or other suitable security as provided in Section 3.2.

k. Insurance. Developer, at its cost, shall procure or have procured and be maintaining in full force and effect insurance consistent with the requirements of Section 7.2 and in the amounts specified therein. Developer shall have submitted to Authority an insurance certificate or other acceptable written evidence demonstrating compliance with the foregoing requirement.

l. Project Entitlements. Developer shall have obtained all entitlements necessary to commence construction of the Project in the manner contemplated by this Agreement (which shall be final and not subject to further appeal).

m. No Litigation. No litigation shall be pending or threatened by any third parties which seek to enjoin the transactions contemplated herein.

n. No Default. Developer is not in default of any of its material obligations under the terms of this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

4.3.8. Developer's Conditions to Closing

Developer's obligation to close Escrow is conditioned upon the satisfaction or written waiver by Developer of each and every one of the conditions precedent a. through j., inclusive, described below (the "Developer's Conditions Precedent to Closing"), which are solely for the benefit of Developer, and which shall be satisfied or waived by the time periods provided for herein:

a. Execution of Documents. Authority shall have executed and deposited into Escrow all documents to which it is a party.

b. Review and Approval of Title. Developer shall have reviewed and approved the condition of title, as provided in Section 4.3.5.

c. Owner's Title Policy. The Title Company shall, upon payment of the Title Company's regularly scheduled premium, be irrevocably committed to issue the Developer Title Policy upon the Closing, in accordance with Section 4.3.6.

d. Financing. Developer has obtained all of the financing described in Section 3.8 and the Executive Director has approved Evidence of Financing in accordance with Section 3.1.

e. Project Budget. The Executive Director has approved a Project Budget timely submitted by Developer and dated as of Closing.

f. Schedule of Performance. The Executive Director has approved a Schedule of Performance timely submitted by the Developer and dated as of Closing.

g. Approval of Environmental Condition of the Site. Developer shall have approved the condition of the Site in accordance to the provisions of Section 4.2.

h. Project Entitlements. Developer shall have obtained all entitlements necessary to commence construction of the Project in the manner contemplated by this Agreement (which shall be final and not subject to further appeal).

i. No Litigation. No litigation shall be pending or threatened by any third parties which seek to enjoin the transaction contemplated herein or to obtain damages in connection with this Agreement.

j. No Default. Authority is not in default of any of its obligations under the terms of this Agreement and all representations and warranties of Authority contained herein shall be true and correct in all material respects.

4.3.9. Termination of Escrow

If the Escrow is not in a condition to close by the Outside Closing Date, as the same may be extended pursuant to this Agreement, then either Party which has fully performed under this Agreement may, in writing, demand the return of money, documents or property and terminate the Escrow and this Agreement. If either Party makes a written demand for the return of its money, documents or property, this Agreement shall not terminate until twenty (20) days after the Escrow Agent shall have delivered copies of such demand to the other Party at the respective addresses set forth in Section 9.1 hereof. If any objections are raised by written Notice within such twenty (20) day period, the Escrow Agent is authorized to hold all money, documents or property until instructed by a court of competent jurisdiction or by mutual written instructions of the Parties. If no such objections are timely made, the Escrow Agent shall immediately return the demanded money and/or documents, and the escrow cancellation charges shall be paid by the undemanding Party. Termination of the Escrow shall be without prejudice as to whatever legal rights, if any, either Party may have against the other arising from this Agreement. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible consistent with the terms of this Agreement. Nothing in this Section shall be construed to impair or affect the rights of Developer to specific performance.

4.3.10. Closing of Escrow

The Conveyance shall close (the "Close" or "Closing") within five (5) days of the satisfaction or written waiver of both Developer's Conditions Precedent to Closing and the Authority's Conditions Precedent to Closing, but in no event later than the Outside Closing Date. The Closing shall occur at the Escrow. The Close or Closing shall mean the time and day that the Grant Deeds are recorded in the Official Records. The Closing Date shall mean the day on which the Closing occurs.

4.3.11. Closing Procedure

The Escrow Agent shall Close the Escrow as follows:

- a. record the Grant Deed with instruction to the County Recorder to deliver of the Grant Deed to Developer and a conforming copy thereof to Authority;
- b. record the Construction Loan Deed of Trust;
- c. record the Authority Regulatory Agreement with instruction to the County Recorder to deliver Authority Regulatory Agreement to the Authority and a conforming copy thereof to Developer;

- d. record the Notice of Affordability Restrictions with instruction to the County Recorder to deliver Notice of Affordability Restrictions to the Authority and a conforming copy thereof to Developer;
- e. record the Authority Deed of Trust with instruction to the County Recorder to deliver of the Authority Deed of Trust to the Authority and a conforming copy thereof to Developer;
- f. record the Subordination Agreement between the Construction Lender and the Authority;
- g. record the Request for Notice of Default with instruction to the County Recorder to deliver of the Request for Notice of Default to the Authority and a conforming copy thereof to Developer;
- h. deliver the Developer Title Policy issued by the Title Company to Developer;
- i. deliver the Authority Title Policy issued by the Title Company to Authority;
- j. file any informational reports required by Internal Revenue Code Section 6045(e), as amended, and any other applicable requirements;
- k. deliver the FIRPTA Certificate, if any, to Developer, and
- l. forward to Developer and Authority a separate accounting of all funds received and disbursed for each Party and copies of all executed, recorded, or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

The Parties shall reasonably cooperate in modifying the foregoing closing procedures to accommodate the recordation of certain subordinated City Loan Documents at the Closing if such City Loan has been fully appropriated and is otherwise in a condition to fund and record the applicable City Loan Documents.

5. DEVELOPMENT OF THE SITE

5.1. Scope of Work

The Developer shall rehabilitate the Project substantially in accordance with the attached Project Development (Attachment No. 3), applicable Governmental Regulations, including (without limitation) all applicable zoning, planning and design review requirements of the City and all permits and entitlements issued for the Project. Subject to Section 6, the Developer shall, by the respective times established therefor in the Schedule of Performance, obtain the necessary permits, or permit ready letter, and commence and complete (or cause to be commenced and completed) the improvements on the Site and construction of the Project.

Project rehabilitation may be phased. Notwithstanding the foregoing, the Project shall be completed by the time established therefor in the Schedule of Performance.

5.2. Permits and Entitlements

Before commencement of the Project or other works of improvement upon the Site, the Developer shall, at its own expense, secure or cause to be secured any and all permits, entitlements or approvals which may be required by the City in accordance with its Municipal Code and land use entitlement process and by any other governmental entity with jurisdiction over the Site and/or the Project in accordance with applicable Governmental Regulations. Such expenses shall be deemed Project Costs. The



Authority shall reasonably cooperate and assist Developer's efforts to comply with this Section 5.2, provided, however that the execution of this Agreement does not constitute the granting of or a commitment to obtain any required land use entitlements or approvals required by the Authority or the City.

5.3. Defects in Plans

Neither the City or the Authority shall be responsible to the Developer or to third parties in any way for any defects in the design of the Project, nor for any structural or other defects in any work done according to the approved design of the Project, nor for any delays reasonably caused by the review and approval processes established by this Section 5.3. The Developer shall hold harmless, indemnify and defend the City and the Authority and their respective officers, employees, agents and representatives from an against any claims, suits for damages to property or injuries to persons arising out of or in any way relating to defects in the design of the Project, including (without limitation) the violation of any laws, and for defects in any work.

5.4. Merger of Parcels

In accordance with applicable requirements of the Subdivision Map Act, Government Code Section 66410, *et seq.*, and the City's applicable subdivision ordinance, the Developer shall cause the individual parcels comprising the Site to be merged into a single legal parcel or as few legal parcels as is feasible by the date established in the Schedule of Performance. Such merger shall ensure that the Site is comprised of legal, insurable parcel(s) sufficient to allow development and operation of the Project.

5.5. Demolition and Clearance of the Site

After the expiration of the Developer's Approval Period, the Developer shall perform any demolition, clearance or preparation of the Site, or any remediation thereon, necessary for the Project. The Developer shall carry out or cause to be carried out the demolition and Site clearance in compliance with all applicable Federal, State and local laws, regulations and enactments including, without limitation, obtaining building or demolition permits, as required, and inspection for and removal as required of asbestos. The Developer acknowledges that the Authority makes no representations or warranties concerning the Site, its suitability for the use intended by the Developer, or the surface or subsurface conditions of the Site. It shall be the sole responsibility of the Developer to investigate and determine the soil conditions of the Site for the construction of all improvements thereon. If the soil conditions of the Site are not in all respects entirely suitable for the use or uses to which the Site will be put, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Site in a condition entirely suitable for the development of the Project on the Site.

5.6. Construction and Rehabilitation of the Project

The cost of planning, designing, developing and rehabilitating the Project, and any demolition and removal of any existing structure or Site improvements, Site remediation and Site preparation costs, shall be borne solely by the Developer.

Developer may act as the general contractor. Developer shall have submitted to Authority, and Authority shall have approved the proposed contractor/subcontractor bidding procedures and the proposed form of the contract to be entered into with the contractor and/or subcontractors. All such contracts shall be entered into with a duly licensed and insured contractor or subcontractors, and Developer shall comply, to the extent practicable subject to the availability of labor of comparable quality and skill, and the



availability of materials of comparable cost and quality, with Health and Safety Code Section 33422.1 and 33422.3.

5.7. Design

The Developer assumes the responsibility for the design and construction of, and shall let contracts for (or cause contracts to be let for) the Project. All additional costs incurred for any reason in rehabilitating the Project shall be at the sole cost and expense of the Developer. The Developer assumes all obligation for ensuring conformity with all applicable Federal, State and local nondiscrimination, labor standards, prevailing wage rate requirements and competitive bidding requirements with respect to the Project.

5.8. Construction Schedule

Subject to Section 9.8, the Developer shall commence and complete all development activities within the times established therefor in the Schedule of Performance.

5.9. Bodily Injury and Property Damage Insurance; Indemnity

5.9.1. Insurance

The Developer shall maintain or shall cause its contractor(s) to maintain until the completion of the Project as determined by the Authority pursuant to Section 7.2 insurance in accordance with the Authority's uniform insurance requirements or as otherwise approved in writing by the Executive Director.

The obligations set forth in this Section 5.9.1 shall remain in effect only until a Release of Construction Covenants has been furnished to the Developer as provided in Section 5.17.

5.9.2. Developer's Indemnity

To the full extent permitted by law, Developer shall indemnify, defend and hold harmless Authority, and any and all of its employees, officials and agents (the Indemnitees) from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, compliance with applicable federal and state labor standards, regulatory proceedings, losses, expenses or cost of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest or defense costs, including expert witness fees), where the same arise out of, are a consequence of, or are in any attributable to, in whole or in part, the performance of this Agreement by Developer, or by any individual or entity that Developer shall bear the legal liability thereof including but not limited to officers, agents, employees or contractors of Developer.

Without affecting the rights of Indemnitees under any provisions of this Agreement, Developer shall not be required to indemnify and hold harmless Indemnitees for liability attributable to the active negligence of Indemnitees, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where Indemnitees are shown to have been actively negligent and where Indemnitees' active negligence accounts for only a percentage of the liability involved, the obligation of Developer will be for that entire portion or percentage of liability not attributable to the active negligence of Indemnitees.

Developer agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every contractor or any other person or entity involved



by, for, with or on behalf of Developer in the in the performance of this Agreement. In the event Developer fails to obtain such indemnity obligations from others as required here, Developer agrees to be fully responsible according to the terms of this Section 5.9.2.

Failure of Indemnitees to monitor compliance with these requirements imposes no additional obligations on Indemnitees and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnitees as set forth here is binding on the successors, assigns or heirs of Developer and shall survive the termination of this Agreement or this Section 5.9.2.

5.10. Other Governmental Authority Permits and Environmental Compliance

Before commencement of demolition activities or construction or other works of improvement upon the Site, the Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements or approvals, if any, which may be required by any other governmental agency affected by such construction or work.

The parties acknowledge and agree the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*, ("CEQA") and National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C. Sections 4321-4347 ("NEPA") may become applicable to the Project as a result of processing Developer's entitlement requests. Pursuant to CEQA and NEPA, certain environmental documents may be required to be prepared. The Developer agrees to cooperate with the City in obtaining information to determine environmental impact associated with such entitlements. The Developer shall be responsible to pay all costs incurred by the City to prepare or cause to be prepared such environmental documents with respect to any land use entitlements affecting the Site and to comply with any required mitigation measures imposed pursuant thereto.

Should the CEQA or NEPA reviews reveal environmental impacts from the Project which cannot be sufficiently mitigated, Developer, Authority shall then negotiate in good faith to restructure the Project in a manner that may reduce the environmental impacts of the projects.

5.11. Rights of Access

Prior to the issuance of a Release of Construction Covenants (as specified in Section 5.17), for purposes of assuring compliance with this Agreement, representatives of the Authority shall have the right of access to the Site, without charges or fees, at normal construction hours and upon at least 48 hours advance notice during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Project so long as Authority representatives comply with all safety rules. Authority representatives shall, except in emergency situations, notify the Developer prior to exercising its rights pursuant to this Section 5.11.

5.12. Federal, State and Local Laws

5.12.1. Labor Standards

Developer shall carry out the Project in conformance with all applicable laws, including any and all applicable federal and state labor standards.

5.12.2. General

Developer shall comply with all applicable Governmental Regulations in the construction, use and operation of the Project, including all applicable federal, state and local statutes, ordinances, regulations and laws, including without limitation, all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Riverside Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.*, Government Code § 4450, *et seq.*, and Government Code § 11135, *et seq.*

5.13. Nondiscrimination During Construction and Rehabilitation

The Developer, for itself and its successors and assigns, agrees that, in the construction of the Project provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, national origin or ancestry.

5.14. Taxes and Assessments

The Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site during Developer's ownership thereof, subject to the Developer's right to contest in good faith any such taxes. The Developer shall remove or have removed any levy or attachment made on the Site or any part thereof, or assures the satisfaction thereof within a reasonable time.

5.15. Liens and Stop Notices

The Developer shall not allow to be placed on the Site or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project, the Developer shall within thirty (30) days of such recording or service or within five (5) days of the Authority's demand, whichever last occurs:

- a. pay and discharge the same; or
- b. effect the release thereof by recording and delivering to the Authority a surety bond in sufficient form and amount, or otherwise; or
- c. provide such other assurances which the Authority deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of Authority from the effect of such lien or bonded stop notice.

5.16. Mortgage Deed of Trust, Sale and Lease-Back Financing; Rights of Holders

5.16.1. No Encumbrances Except Mortgages, Deeds of Trust

Construction Mortgages, deeds of trust, sales and leases-back shall be permitted before completion of the Project with the Authority's prior written approval, which shall not be unreasonably withheld or delayed, but only for the purpose of securing loans of funds to be used for financing the Project, and any other purposes necessary for the construction of the Project, and necessary and appropriate under this Agreement. The Developer shall notify the Authority in advance of any mortgage, deed of trust or sale and lease-back financing, if the Developer proposes to enter into the same before completion of the Project. The Developer shall not enter into any such conveyance for financing without the prior written approval of



the Authority, which approval the Authority shall not unreasonably withhold provided that (i) such conveyance for financing is given to a responsible financial or lending institution, person or entity, and (ii) the Developer has commenced or is prepared to commence construction of the Project. The Authority's approval shall not be required for any financing after the issuance of a Release of Construction Covenants for the Project as specified in Section 5.17.

5.16.2. Holder Not Obligated to Construct Improvements

The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

5.16.3. Notice of Default to Mortgagee or Deed of Trust Holders, Right to Cure

Whenever the Authority delivers any notice or demand to Developer with respect to any breach or default by the Developer in completion of the Project and the Developer fails to cure or commence to cure to the Authority's satisfaction within sixty (60) days from the date of such notice, the Authority shall at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement and granted by Developer, a copy of such notice or demand. Except as otherwise agreed to in the Subordination Agreement with a senior lender, each such holder shall (insofar as the rights granted by the Authority are concerned) have the right, at its option, within sixty (60) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and diligently prosecute such cure or remedy to completion any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage. Written notice of such holder's intention to cure Developer's default shall be deemed to be commencement of cure. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations under this Agreement by written agreement satisfactory to the Authority. The holder, in that event, must agree to complete, in the manner provided in this Agreement, the Project to which the lien or title of such holder relates, and submit evidence satisfactory to the Authority that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing the Project shall be entitled, upon compliance with the requirements of this Agreement, to a Release of Construction Covenants as specified in Section 5.17.

5.16.4. Failure of Holder to Complete Project

Except as otherwise agreed to in the Subordination Agreement with a senior lender, in any case where, thirty (30) days after the holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof receives notice of default by the Developer in connection with the construction of the Project under this Agreement, and such holder has not exercised the option to construct as set forth in Section 5.16.2, or if it has exercised the option and has not proceeded diligently with construction, or to obtain title after institution of foreclosure or trustee's sale proceedings, the Authority may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the holder by virtue of a deed in lieu of foreclosure, the Authority, if it so desires, shall be entitled to a conveyance from the holder to the Authority,

upon payment to the holder of an amount equal to the sum of the following items (i) through (v) less any income derived by the lender from operations conducted on the Site (the receipt of principal and interest payments in the ordinary course of business shall not constitute income for the purposes of this Section):

(i) The unpaid mortgage or deed of trust debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(ii) All expenses with respect to foreclosure;

(iii) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Project or part thereof;

(iv) The costs of any improvements made by such holder; and

(v) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Authority.

5.16.5. Right of the Authority to Cure Mortgage or Deed of Trust Default

Except as otherwise agreed to in the Subordination Agreement with a senior lender, in the event of a mortgage or deed of trust default or breach by the Developer past any applicable notice and cure period and prior to the issuance by the Authority of the Release of Construction Covenants in accordance with Section 5.17, the Developer shall immediately deliver to the Authority a copy of any mortgage holder's notice of default. If the holder of any mortgage or deed of trust has not exercised its option to construct, the Authority shall have the right, but not the obligation to cure the default. In such event, the Authority shall be entitled to reimbursement from the Developer of all proper costs and expenses incurred by the Authority in curing such default. Such costs and expenses incurred by the Authority shall accrue interest until paid by the Developer at the rate of ten percent (10%) per annum or the maximum allowable interest rate permitted by applicable law, whichever is lower. Such costs and expenses and any interest accrued thereon shall be secured as additional advances by and pursuant to the Deed of Trust and the Assignment of Rents.

In furtherance of this Section 5.16.5, every subordination agreement entered into by and between the Authority and a senior lien holder pursuant to Section 3.3.3 shall include an acknowledgment and agreement by the senior lien holder to provide notice of Developer's default to the Authority.

5.16.6. Right of the Authority to Satisfy Other Liens on the Site After Title Passes

Subject to the rights of any senior lender, prior to the issuance by the Authority of the Release of Construction Covenants in accordance with Section 5.17 and after the Developer has had written notice and has failed after a reasonable time (but in any event not less than thirty (30) days) to challenge, cure, adequately bond against, or satisfy any liens or encumbrances on the Site which are not otherwise permitted under this Agreement, the Authority shall have the right (but not the obligation) to satisfy any such liens or encumbrances. The costs and expenses of such cure shall accrue interest until paid by the Developer at the rate of ten percent (10%) per annum or the maximum allowable interest rate provided by

applicable law, whichever is lower. Such costs and expenses and any interest accrued thereon shall be secured as additional advances by and pursuant to the Deed of Trust and the Assignment of Rents.

5.17. Release of Construction Covenants

Promptly after completion of the Project in conformity with this Agreement, the Authority shall furnish the Developer with a “Release of Construction Covenants” upon written request therefor by the Developer. The Authority shall not unreasonably withhold such Release of Construction Covenants. The Release of Construction Covenants shall be substantially in the form of the “Release of Construction Covenants” (Attachment No. 11). The Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the Project and the Release of Construction Covenants shall so state. Except as provided in the Authority Regulatory Agreement, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in Section 6, *et seq.*

If the Authority refuses or fails to furnish the Release of Construction Covenants, after written request from the Developer, the Authority shall, within thirty (30) days of written request therefor, provide the Developer with a written statement of the reasons the Authority refused or failed to furnish the Release of Construction Covenants. The statement shall also contain the Authority’s opinion of the actions the Developer must take to obtain the Release of Construction Covenants. If the Authority shall have failed to provide such written statement within said thirty (30) day period, and on the condition that the City has issued a certificate of occupancy or equivalent document for the Project, the Project shall thereafter be deemed approved by the Authority and the Authority shall promptly issue the Release of Construction Covenants.

The Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Project, or any part thereof. The Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

6. **COVENANTS AND RESTRICTIONS**

6.1. Use Covenants

Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that upon the acquisition of the Site comprising the Site and during construction and thereafter, the Developer shall devote the Site to the uses specified in the Authority Regulatory Agreement. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to all applicable provisions of the Riverside Municipal Code.

6.2. Affordable Housing Requirements

6.2.1. Number of Units

Developer agrees to make available, restrict occupancy to, and rent at an Affordable Rent eight (8) of the Affordable Units to Moderate Income Service-Disabled Veteran Households, Moderate Income Veteran Households or Moderate Income Household which are comprised of five (5) two-bedroom Units and three (3) three-bedroom Units, twelve (12) of the Affordable Units to Qualified Low Income



Service-Disabled Veteran Households, Qualified Low Income Veteran Households or Qualified Low Income Household which are comprised of six (6) two-bedroom Units and six (6) three-bedroom Units and nine (9) of the Affordable Units to Very Low Income Service-Disabled Veteran Households, Very Low Income Veteran Household or Very Low Income Households which are comprised of four (4) two-bedroom Units and five (5) three-bedroom Units. One (1) Unit shall be reserved for occupancy by on-site management.

6.2.2. Duration of Affordability Requirements

The Affordable Units shall be subject to the requirements of Section 6.3 throughout the Affordability Period.

6.2.3. Selection of Tenants

Developer shall be responsible for the selection of tenants for the Affordable Units in compliance with lawful and reasonable criteria, and in accordance with the procedures set forth in the Management Plan which shall be submitted to the Authority for approval pursuant to Section 6.7. To the extent permitted by law, preference shall be given to tenant applicants who have been displaced by redevelopment activities of the Authority in connection with this Project and in the implementation of the former Agency's Redevelopment Plans. In addition and to the extent legally allowable and permitted under the Tax Credit Rules, preference shall also be given to tenant applicants residing in the City and with respect to Affordable Units for Moderate Income Services-Disabled Veteran Households, Moderate Income Veteran Households and Moderate Income Households, preference shall be given in the following order of priority: first to the Moderate Income Services-Disabled Veteran Households, then to Moderate Income Veteran Households, and finally, Moderate Income Households. With respect to Qualified Low Income Services-Disabled Veteran Households, Qualified Low Income Veteran Households and Qualified Low Income Households, preference shall be given in the following order of priority: first to the Qualified Low Income Services-Disabled Veteran Households, then to Qualified Low Income Veteran Households, and finally, Qualified Low Income Households. With respect to Affordable Units for Very Low Income Services-Disabled Veteran Households, Very Low Income Veteran Households or Very Low Income Households, preference shall be given in the following order of priority: first to the Very Low Income Services-Disabled Veteran Households, then to Very Low Income Veteran Households, and finally, Very Low Income Households.

6.2.4. Household Income Requirements

In order to assure compliance with the rent and occupancy restrictions set forth in this Agreement and the Authority Regulatory Agreement, the Developer shall, prior to the initial leasing of a Unit and on an annual basis thereafter throughout the Affordability Period, obtain and cause to be submitted to the Authority, at Developer's expense, a verification of all household sources of income demonstrating that such household is (i) a Moderate Income Service-Disabled Veteran Household, Moderate Income Veteran Household, Moderate Income Household, (ii) a Qualified Low Income Service-Disabled Veteran Household, Qualified Low Income Veteran Household, Qualified Low Income Household or (iii) a Very Low Income Service-Disabled Veteran Household, Very Low Income Veteran Household or Very Low Income Household, as applicable, and meets the eligibility requirements established for the Unit. Such income verification shall be submitted on such form as prepared and submitted in accordance with the Tax Credit Rules or such other form approved by the Authority.

6.2.5. Annual Reporting Requirement

In order to satisfy the monitoring requirements of the Authority and the Developer under Section 33418 of the Community Redevelopment Law, as the same may be amended from time to time, the Developer shall, following the issuance of the Release of Construction Covenants, and on or before June 30 of each year, submit to the Authority a certification of compliance with the terms and conditions of this Agreement and the Authority Regulatory Agreement and such other reports as required thereby on forms prescribed by the Authority. Each annual report shall cover the immediately preceding fiscal year. Developer further agrees to provide true and accurate copies of all reports, audits and compliance forms prepared in accordance with applicable Tax Credit Rules.

Additionally, Developer shall determine and submit a report to the Authority showing the proposed Affordable Rent amount for each Unit for the preceding 12 months with supporting documentation comparing the methods for calculating Affordable Rent as set forth in Section 1.1.

6.2.6. Relationship to Other Affordability Covenants

Satisfaction of any other affordability covenants applicable to the Project shall not constitute substitute satisfaction of the requirements set forth in the Authority Regulatory Agreement.

6.3. Lease Requirements

Prior to rental of any of the Affordable Units, the Developer shall submit a standard lease form to the Authority for the Authority's approval, which approval shall not unreasonably be withheld or delayed. The Developer shall enter into a lease, in the form approved by the Authority with each tenant of a Unit.

6.4. Capital Replacement Reserve

The Developer shall, or shall cause the Property Manager to, set aside the greater of (a) an amount equal to Two Hundred Fifty Dollars (\$250.00) per Unit per year or (b) the minimum amount required by TCAC into a separate interest-bearing trust account (the "Capital Replacement Reserve"). The amount required to be placed into the Capital Replacement Reserve shall increase at the rate determined by the Permanent Lender or Investor. Funds in the Capital Replacement Reserve shall be used for capital replacements to the Project fixtures and equipment which are normally capitalized under generally accepted accounting principles. Interest on funds in the Capital Replacement Reserve shall remain in the Capital Replacement Reserve. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve the Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Project in the manner prescribed herein. Not less than once per year, Developer, at its expense, shall submit to the Authority an accounting for the Capital Replacement Reserve. Authority approval is not required for withdrawals from the Capital Replacement Reserve in accordance with this Agreement.

6.5. Operating Reserve

Developer shall, or shall cause the Property Manager to, set aside at the time the Release of Construction Covenants is recorded in a separate interest-bearing trust account held by the Developer with an initial amount equal to three (3) months of the projected annual Operating Expenses for the Development or in such lesser amount as allowed by the senior lender or investor (the "Operating Reserve"). Interest earned on funds in the Operating Reserve shall remain in the Operating Reserve. Developer may withdraw from the Operating Reserve those amounts exceeding the current year budget for operating expenses.



Authority approval is not necessary for withdrawals made in accordance with this Agreement. Funds may be disbursed from the Operating Reserve to cover shortfalls between the income and actual Operating Expenses and Debt Service of the Development. Upon making disbursements to cover operating shortfalls, the Operating Reserve shall be replenished to the level prior to the disbursement from available Project cash flow unless such replenishment is not required by the senior lender or investor.

6.6. Marketing Plan

By the time specified therefor in the Schedule of Performance, Developer shall submit for the approval of the Authority, which approval shall not unreasonably be withheld, a plan for marketing the rental of the Affordable Units (the "Marketing Plan"). The Marketing Plan shall include affirmative marketing procedures and requirements consistent with the provisions of Section 5.A. of the Authority Regulatory Agreement. The Marketing Plan shall include a plan for publicizing the availability of the Affordable Units within the City in a manner which gives notice to existing residents, such as notices in any City sponsored newsletter, newspaper advertising in local newspapers and notices in City offices and community centers. The Marketing Plan shall require Developer to obtain from the Authority the names of Qualified Households who have been displaced by the Project and other persons who have indicated to the Authority their interest in the Affordable Units, and to notify persons on such list of availability of units in the Project prior to undertaking other forms of marketing. The Marketing Plan shall provide that the persons on such list be given not fewer than ten (10) days after receipt of such notice to respond by completing application forms for rental of Affordable Units, as applicable.

6.7. Long Term Management

The parties acknowledge that the Authority is interested in the long term management and operation of the Project and in the qualifications of any person or entity retained by the Developer for that purpose (the "Property Manager"). Prior to the issuance of a Release of Construction Covenants by the Authority and the initial rental of the Affordable Units in accordance with this Agreement, the Developer shall submit for the reasonable approval of the Authority a detailed "Management Plan" which sets forth in detail the duties of the Property Manager, the tenant selection process, a security system and compliance with the City's Crime-Free Multi-Family Housing Program, the procedures for determining Affordable Rent and for the collection of rent, occupancy limits and the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project. The Developer may from time to time submit amendments and modifications to the Management Plan for the reasonable approval of the Authority. The management of the Project shall be in compliance with the Management Plan which is approved by the Authority.

The Developer shall, prior to the rental of the first Unit, contract with a Property Manager, subject to the reasonable approval of the Authority. During the term of the Affordability Period, such Property Manager may subcontract for property management services with an experienced and qualified property management entity (based upon the criteria set forth herein below) only upon prior written approval by the Authority which approval shall not be unreasonably withheld.

During the Affordability Period, the Authority may from time to time review and evaluate the identity and performance of the Property Manager of the Project as it deems appropriate in its reasonable judgment. If the Authority reasonably determines that the performance of the Property Manager is deficient based upon the standards and requirements set forth in this Agreement, the Authority shall provide notice

to the Developer of such deficiencies and the Developer shall use its best efforts to correct such deficiencies within 60 days. Upon default of the terms of this Agreement by the Property Manager, the Authority shall have the right to require the Developer to immediately remove and replace the Property Manager with another property manager or property management company who is reasonably acceptable to the Authority, and who has not less than five (5) years' experience in property management, including experience managing multifamily residential developments of the size, quality and scope of the Project. If the entity removed is related to or affiliated with the Developer, the Authority may replace the Property Manager with another entity that is not related to or affiliated with the Developer.

In addition, during the term of the Affordability Period, the Developer shall annually submit to the Authority for its reasonable approval a budget for the operation of the Project. The fee paid to Property Manager shall be shall not exceed the reasonable and customary fees paid to such property managers for similar rental properties in Riverside County. Other fees and payments shall be consistent with prevailing market rates for the services performed and goods provided in consideration for such fees and payments. The Developer shall ensure that the reasonably foreseeable expenses of operating the Project do not materially exceed the budget which has been approved by the Authority. The Developer shall annually provide to the Authority a detailed accounting of operating expenses and shall make available its books and records to the Authority for inspection and copying, upon reasonable advance notice during its normal hours of business.

6.8. Authority Regulatory Agreement

The Developer shall execute, acknowledge, and deliver to Authority the Authority Regulatory Agreement to be recorded with respect to the Site in the official records of Riverside County. The Authority Regulatory Agreement shall contain those portions of this Agreement relating to affordable housing requirements, and other provisions which are intended to survive the completion of construction of the Project.

6.9. Maintenance of Site

During construction of the Project and throughout the Affordability Period, the Developer shall maintain the Site and the improvements thereon in conformity with the Authority Regulatory Agreement in all material respects.

6.10. Nondiscrimination Covenants

Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site, or any part of it, nor shall the Developer or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Site, including the Units, or any portion thereof. The foregoing covenants shall run with the land.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to



affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

Developer shall refrain from restricting the sale of the Site, including the Units, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All such deeds, leases, contracts or subcontracts shall contain or be subject to substantially the following nondiscrimination and nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

6.11. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction

The Authority is deemed the beneficiaries of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided, without regard to whether the Authority has been, remains or is an owner of any land or interest therein in the Site. The Authority shall have the right, if this Agreement or any covenants in any agreement pursuant to this Agreement, including the Grant Deed and the Authority Regulatory Agreement, are breached, following notice and expiration of all applicable cure periods, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and such covenants may be entitled.

7. INDEMNITY AND INSURANCE

7.1. Developer's Indemnity

To the full extent permitted by law, Developer shall indemnify, defend and hold harmless Authority, and any and all of its employees, officials and agents (the "Indemnitees") from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or cost of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest or defense costs, including expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, to: (i) Developer's failure to comply with all applicable laws; (ii) defects in the design of the Project as to all or any portion of the Project developed or caused to be developed by Developer, or (iii) any negligent performance or act or negligent failure to perform or act pursuant to this Agreement by Developer, or by any individual or entity that Developer shall bear the legal liability thereof including but not limited to officers, agents, employees or contractors of Developer.

Without affecting the rights of Indemnitees under any provisions of this Agreement, Developer shall not be required to indemnify and hold harmless Indemnitees for liability attributable to the active

negligence of Indemnitees, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction.

Failure of Indemnitees to monitor compliance with these requirements imposes no additional obligations on Indemnitees and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnitees as set forth here is binding on the successors, assigns or heirs of Developer and shall survive the termination of this Agreement.

This indemnification provision supplements and in no way limits the scope of the indemnification set out elsewhere in this Agreement. The indemnity obligation of Developer under this Section shall survive the expiration or termination, for any reason, of this Agreement.

7.2. Insurance

Prior to the commencement of any work of improvement upon the Site and without limiting Developer's indemnity obligations set forth in the Agreement, Developer shall procure and maintain in full force during the term of this Agreement, the following forms of insurance coverage:

- a. Workers' Compensation insurance which complies with all applicable state laws and requirements.
- b. Comprehensive General Liability insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate for bodily injury and property damage, including coverages for contractual liability, personal injury, broad form property damage, products and completed operations.
- c. Property insurance covering all real and personal (non-expendable) property leased or purchased in connection with the completion of the Project in a form appropriate for the nature of such property, covering all risks of loss, excluding earthquake and flood, for 100% of the replacement value, with deductible, if any, acceptable to the Authority, naming the Authority as loss payee.
- d. Developer shall cause the general contractor to maintain insurance of the types and in at least the minimum amounts described in subsections a and b above, and shall require that such insurance shall meet all of the general requirements of subsections e, f, and g below. Unless waived by Authority, liability insurance to be maintained by the general contractors pursuant to this subsection shall name as additional insured Authority, and its officers, agents, employees and representatives.
- e. The required insurance shall be provided under an occurrence form, and Developer shall maintain such coverage continuously throughout the term of this Agreement. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.
- f. Each insurance policy required by this Agreement shall contain the following clauses:
 - (1) "This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the Housing Authority of the City of Riverside."
 - (2) "It is agreed that the Housing Authority of the City of Riverside are self-insured and any insurance maintained by them shall apply in excess of and not contribute with insurance provided by this policy."



(3) "The Housing Authority of the City of Riverside and its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the Housing Authority of the City of Riverside."

g. Prior to the disbursement of any portion of the Loan Proceeds, Developer shall deliver to Authority insurance endorsements evidencing the existence of the insurance policies required by this Agreement, and including the applicable clauses referenced above. Also, the Authority has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

h. In addition to any other remedies the Authority may have if Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Authority may at its sole option:

(1) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from the Loan Proceeds.

(2) Withhold any disbursement of the Loan Proceeds until Developer demonstrates compliance with the requirements hereof.

(3) In the event Developer has failed to commence curing such default within thirty (30) days of notice or thereafter fails to diligently pursue such cure, declare Developer to be in default, terminate this Agreement and declare that reimbursement of the Loan Proceeds is due and payable.

Exercise of any of the above remedies, however, is an alternative to other remedies Authority may have and is not the exclusive remedy for Developer's failure to maintain insurance or secure appropriate endorsements. Nothing herein contained shall be construed as limiting in any way the extent to which Developer may be held responsible for payments of damages to persons or property resulting from Developer's performance of the work covered under this Agreement.

8. DEFAULTS, REMEDIES AND TERMINATION

8.1. Defaults - General

Subject to the extensions of time set forth in Section 9.8, failure or delay by either party to perform, comply with or observe any of the conditions, provisions, terms, covenants or representations of this Agreement, including any of the Attachments hereto, constitutes a default under this Agreement. As provided hereinbelow, the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with diligence. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the date of default.

Except as required to protect against further damages, the injured party may not institute legal proceedings against the party in default until an "Event of Default" (as such term is hereinafter defined) has occurred. For purposes of this Agreement, an "Event of Default" for purposes of instituting legal proceedings by a non-defaulting party against the defaulting party shall mean a failure to satisfy, perform, comply with or observe any of the conditions, provisions, terms, covenants or representations contained in this Agreement, including any Attachment hereto, and such failure having continued uncured or without the



defaulting party commencing to diligently cure for thirty (30) days after notice thereof in writing is mailed by the injured party to the defaulting party; provided, however, that if such event of default cannot be cured within such thirty (30) day period and Developer has diligently commenced efforts to cure, the Developer shall have such reasonable time to diligently prosecute such cure to completion. If a different period or notice requirement is specified for any particular default under any other provision of this Agreement, including any of the Attachments hereto, the specific provision shall control.

8.2. Legal Actions

8.2.1. Institution of Legal Actions

In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either party may institute an action at law or equity to cure, correct or remedy any Event of Default, to recover damages as provided herein for any Event of Default, or to obtain any other remedy consistent with the purpose of this Agreement, subject to the nonrecourse nature of the loans after recordation of the Release of Construction Covenants. Such legal actions may be instituted in the Superior Court of the County of Riverside, State of California, in an appropriate municipal court in that County, or in the Federal District Court in the Central District of California.

8.2.2. Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

8.2.3. Acceptance of Service of Process

In the event that any legal action is commenced by Developer against Authority, service of process on Authority shall be made by personal service upon the Authority's Secretary, or in such other manner as may be provided by law.

In the event that any legal action is commenced by Authority against Developer, service of process on Developer shall be made by personal service upon any owner, general partner, officer or manager of Developer or in such other manner as may be provided by law, whether made within or without the State of California.

8.3. Rights and Remedies are Cumulative

To the extent permitted by law and except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other party.

8.4. Inaction Not a Waiver of Default

Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

8.5. Specific Performance

Upon an Event of Default, the non-defaulting party, at its option, may thereafter (but not before) commence an action seeking specific performance and/or other equitable relief to enforce the terms of this Agreement pertaining to such default.

8.6. Rights of Termination and Damages

8.6.1. Termination by Developer

Provided the Developer is not in default of any of the terms and conditions of this Agreement, then in the Event of Default by the Authority, the Developer shall have the right to terminate this Agreement by written notice to Authority in accordance with the provisions of Section 9.1. Upon termination by the Developer pursuant to this Section 8.6.1, the Authority may enter into a new agreement with respect to the development of the Site and, except as expressly provided to the contrary herein with respect to obligations that survive the termination of this Agreement, there shall be no further rights or obligations between the Authority and the Developer.

8.6.2. Termination by Authority

Provided the Authority is not in default of any of the terms and conditions of this Agreement, then upon an Event of Default by the Developer, the Authority shall have the right to terminate this Agreement by written notice to the Developer in accordance with the provisions of Section 9.1. In addition, the Authority may exercise its rights under the Authority Deed of Trust and/or apply to a court of competent jurisdiction for relief at law or in equity as may be appropriate and permissible.

8.7. Reentry and Revesting of Title in the Authority After the Conveyance and Prior to Completion of Construction

Subject to the approval of the Construction Loan lender or Permanent Loan Lender, as applicable, and Investor, the Authority has the additional right, at its election, to reenter and take possession of the Site (or any part thereof), with all improvements thereon, and terminate and revest in the Authority the estate (or part thereof) conveyed to the Developer if after any Conveyance and prior to the issuance of the Release of Construction Covenants, the Developer (or its successors in interest) shall:

- a. subject to the extensions of time set forth in Section 9.8, fail to start the construction of the Project as required by this Agreement for a period of forty-five (45) days after written notice of default thereof from the Authority; or
- b. subject to the extensions of time set forth in Section 9.8, abandon or substantially suspend construction of the Project as required by this Agreement for a period of thirty (30) days after written notice thereof from the Authority; or
- c. contrary to the provisions of Section 2.2, transfer or suffer any involuntary transfer of the Site or any part thereof in violation of this Agreement.

The periods set forth in paragraphs a., b., and c. above shall be extended if, within forty-five (45) days after notice is delivered by the Authority, the Developer delivers to the Authority notice that it has elected to submit a plan to cure such default or defaults within one hundred eighty (180) days of the Developer's notice to the Authority.



Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit: (i) any mortgage or deed of trust or other security interest permitted by this Agreement; or (ii) any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust or other security interests.

Upon issuance of a Release of Construction Covenants for the Project, the Authority's right to reenter, terminate and revest shall terminate.

Subject to the rights of the Construction Loan lender and Investor, upon the revesting in the Authority of title to the Site or portion thereof as provided in this Section 8.7, the Authority shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site or portions thereof as soon and in such manner as the Authority shall find feasible and consistent with the objectives of such law to a qualified and responsible party or parties as determined by the Authority, who will assume the obligation of making or completing the Project, or such improvements in their stead as shall be satisfactory to the Authority and in accordance with the uses specified for such parcel or part thereof. Such party shall be required to pay for a pro rata share of the cost of construction, maintenance and operation of the common area improvements upon the Site. Upon such resale of the Site or portions thereof, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering such parcel which is permitted by this Agreement, shall be applied:

1. First, to reimburse the Authority, all reasonable costs and expenses incurred by the Authority, excluding Authority staff costs, but specifically including (but not limited to) any expenditures by the Authority in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the Authority from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time of revesting of title thereto in the Authority, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project or any part thereof on the Site; and any amounts otherwise owing the Authority, and in the event additional proceeds are thereafter available.

2. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the sum of (a) the costs incurred for the acquisition and development of the Site or part thereof and for the Project existing on such Site at the time of the reentry and possession, less (b) any net gains or income withdrawn or made by the Developer from such Site or the improvements thereon.

3. Any balance remaining after such reimbursements shall be retained by the Authority as its property.

The rights established in this Section 8.7 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Authority will have conveyed the Site or portion thereof to the Developer for redevelopment purposes, particularly for development of the Project and not for speculation in land.

8.8. Limitation on Damages.

Without limiting the generality of the foregoing, the Parties shall not in any event be entitled to, and the Parties hereby waive, any right to seek consequential damages of any kind or nature from any other Party or Parties arising out of or in connection with this Agreement, and in connection with such waiver, the Parties are familiar with and hereby waive the provision of Section 1542 of the California Civil Code which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

8.9. Rights of Limited Partners.

Notwithstanding anything to the contrary contained herein, the Authority hereby agrees that any cure of any default made or tendered by any limited partner of the Developer shall be deemed to be a cure by the Developer, and shall be accepted or rejected on the same basis as if made or tendered by the Developer; provided, however, that no limited partner shall have any obligation or duty to take any action to cure any default or to cause any default to be cured. The Authority shall not commence any action against the Developer under any of the Authority Loan Documents without first providing the limited partner of the Developer with ninety (90) days prior notice (or such longer period as the limited partner may need if the limited partner is removing the general partner of the Developer in connection with curing said default) in which time the limited partners of the Developer shall have the right, but not the obligation, to cure any default of the Developer under the Authority Loan Documents.

9. GENERAL PROVISIONS

9.1. Notices, Demands and Communications Between the Parties

Unless otherwise specified in this Agreement, it shall be sufficient service or giving of any notice, request, certificate, demand or other communication if the same is sent by (and all notices required to be given by mail will be given by) first-class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery. Unless a different address is given by any party as provided in this Section, all such communications will be addressed as follows:

To Developer: (INSERT DEVELOPMENT PARTNER)

To Authority: Housing Authority of the City of Riverside
Attn: Executive Director
3900 Main Street
Riverside, California 92522



Copies to:

City of Riverside
Attn: Community Development Director
3900 Main Street, Third Floor
Riverside, California 92522

City of Riverside
Attn: City Attorney
3900 Main Street
Riverside, California 92522

Any Notice shall be deemed received immediately if delivered by hand and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

9.2. Subordination of Indebtedness

Any indebtedness of the Authority to the Developer created by this Agreement is subordinate to any pledge of tax increments to the bondholders of any tax increment bonds which have been or may hereafter be issued by the Authority. The Parties hereby agree to execute any and all ancillary documents as may reasonably be requested by any bondholder or other purchaser of bonds, notes or other forms of indebtedness of the Authority entitled to receive the tax increment revenues for the repayment of any other indebtedness of the Authority for which the tax increment revenues have been or may hereafter be pledged.

9.3. Conflicts of Interest

No member, official or employee of the Authority shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

9.4. Warranty Against Payment of Consideration for Agreement

Developer warrants that it has not paid or given and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as project managers, architects, engineers, attorneys, and public relations consultants.

9.5. Nonliability of Authority Officials and Employees

No member, official, employee, representative or agent of the Authority shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by Authority or for any amount which may become due to Developer or successor, or on any obligation under the terms of this Agreement.

9.6. Approval by Authority and Developer

Approvals required of the Parties shall be given within the time set forth in the Schedule of Performance or, if no time is given, within a reasonable time. Wherever this Agreement requires the Authority or Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld or delayed. In the event that a Party declines to approve any contract, document, plan, proposal, specification, drawing or other matter, such denial shall be



in writing and shall include the reasons for such denial. The Party considering the request for such approval shall use commercially reasonable efforts to respond to such request for approval within fifteen (15) days of receipt unless expressly provided to the contrary herein.

9.7. Plans and Data

If this Agreement is terminated by the Developer pursuant to Section 3.8.6, the Authority shall have the right but not the obligation to purchase from Developer all plans, drawings, studies and related documents concerning the Project within Developer's possession and control, without representation or warranty. The purchase price for all or any part of such materials shall be their cost to Developer, less amounts already disbursed to the Developer from the Loan Proceeds for such purposes.

If this Agreement is terminated by Authority pursuant to Section 3.8.6, then, pursuant to the exercise of Authority's rights under the Assignment of Plans, Reports and Data, Developer shall deliver to Authority any and all plans, drawings, studies and related documents concerning the Project within Developer's possession and control, without representation or warranty. Upon delivery to the Authority, the Authority shall have the right to use such materials as it deems necessary and appropriate to fulfill the purposes of this Agreement without obligation to Developer.

9.8. Force Majeure

In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God or any other deity; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation including litigation challenging the validity of this transaction or any element thereof including the acquisition of the Site, or any portion thereof, unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of the other party; acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the Authority shall not excuse performance by the Authority); or any other causes beyond the control or without the fault of the party claiming an extension of time to perform or relief from default, including without limitation the allocation of Authority revenues to the State of California by a legislative act to fund deficits in the state budget. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by mutual agreement among the Authority and the Developer. That notwithstanding, if said prevention or delay extends for one (1) year, any party, by notice in writing to the other, may terminate this Agreement.

9.9. Applicable Law; Interpretation

The laws of the State of California shall govern the interpretation and enforcement of this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and as though both of the parties participated equally in its drafting. Captions and organizations are for convenience only and shall not be used in construing meaning.

9.10. Inspection of Books and Records, Reports

The Authority or its designee has the right at all reasonable times, and upon reasonable advance notice of not less than 48 hours, to inspect the books and records and other related documents of the Developer pertaining to the satisfaction of their obligations hereunder as reasonably necessary for purposes of enforcing the provisions of this Agreement. Such books, records and related documents shall be maintained by the Developer at locations as agreed by the parties. Throughout the term of this Agreement, the Developer shall submit to the Authority reasonable written progress reports as and when reasonably requested by Authority on all matters pertaining to the Project of the Site.

9.11. Administration

This Agreement shall be administered by the Executive Director following approval of this Agreement by the Authority. Whenever a reference is made in this Agreement to an action, finding or approval to be undertaken by the Authority, the Executive Director is authorized to act on behalf of the Authority unless specifically provided otherwise or the context should require otherwise. The Executive Director shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the Authority so long as such actions do not substantially change the uses or development permitted on the Site, or add to the costs of the Authority as specified herein or as agreed to by the Authority Board. Notwithstanding the foregoing, the Executive Director may in his/her sole and absolute discretion refer any matter to the Authority Board for action, direction or approval.

9.12. Mutual Cooperation

Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement. To the extent that any lender to, or equity investor in the Project requires modifications to this Agreement or any attachment hereto, the Authority agrees to make such modification within a reasonable time on the condition that such modification does not materially change the rights and obligations of the Parties as set forth herein.

9.13. Ground Breaking and Grand Openings

To insure proper protocol and recognition of the Authority Board, the Developer shall cooperate with Authority staff in the organization of any Project-related ground breaking, grand openings or any other such inaugural events/ceremonies sponsored by the Developer and celebrating the development which is the subject of this Agreement providing Authority staff with at least two (2) weeks prior notice of any such event.

9.14. Independent Contractor

The parties agree that the Developer, in the performance of this Agreement shall act as and be an independent contractor and shall not act in the capacity of an agent, employee or partner of the Authority.

10. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement includes sixty-two (62) pages and Attachment Nos. 1 through 13 which constitute the entire understanding and agreement of the Parties. Three (3) duplicate originals of this Agreement shall be executed each of which shall be deemed to be an original. This Agreement may be executed in

counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

Except as otherwise provided herein, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Authority or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of Authority and Developer.

[Signatures On Next Page]